

DOCKETED	
Docket Number:	24-OPT-05
Project Title:	Corby Battery Energy Storage System Project
TN #:	272434
Document Title:	Michael Geller Comments - Comments on Staff Assessment 5-4 Cultural and Tribal Cultural Resources
Description:	N/A
Filer:	System
Organization:	Michael Geller
Submitter Role:	Public
Submission Date:	9/10/2026 6:52:20 AM
Docketed Date:	9/10/2026

Comment Received From: Michael Geller
Submitted On: 9/10/2026
Docket Number: 24-OPT-05

Comments on Staff Assessment 5-4 Cultural and Tribal Cultural Resources

See Attached Comment Letter

Additional submitted attachment is included below.

September 4, 2026

California Energy Commission

Re: Corby Battery Energy Storage System Project (24-OPT-05)

Commissioners:

COMMENTS ON STAFF ASSESSMENT SECTION 5.4

CULTURAL AND TRIBAL CULTURAL RESOURCES

Corby Battery Energy Storage System Project (24-OPT-05)

I. INTRODUCTION

I submit these comments regarding Section 5.4, Cultural and Tribal Cultural Resources, of the Staff Assessment for the proposed Corby Battery Energy Storage System Project.

My comments focus principally on the Catherine Kilkenny Residence at 5310 Kilkenny Road. My wife and I have lived at this property since 1990. During that time, we have maintained and restored the residence and have undertaken extensive research into its history, its builder, the Kilkenny family, and its place within the agricultural history of this area. That research has culminated in an application for listing of the property in the National Register of Historic Places.

I am not an archaeologist, tribal cultural resources specialist, or professional historian. I therefore do not intend to offer expert opinions in areas outside my knowledge. I do, however, have more than three decades of firsthand knowledge of the Catherine Kilkenny Residence, its surroundings, and the rural agricultural setting in which it has existed since its construction in 1900.

Importantly, the historical significance of this residence is no longer merely an assertion by its owners.

CEC Staff independently evaluated the Catherine Kilkenny Residence and disagreed with the applicant's consultant, who had concluded that the property was not eligible for listing in either the National Register of Historic Places or the California Register of Historical Resources. Staff instead determined that the Catherine Kilkenny Residence is eligible for listing in the California Register.

Staff also expressly acknowledges that construction and operation of the proposed Corby BESS would be in the direct line of sight of the historic residence and would further degrade its original setting.

Those findings fundamentally frame the issue now before the Commission.

The question is no longer whether the Catherine Kilkenny Residence is a historical resource. Staff has determined that it is.

The question is whether Staff may acknowledge that this Project will further degrade the original setting of that historical resource and nevertheless conclude that the resulting impact will be less than significant based principally upon a future landscape screening plan required by Condition of Certification CUL-7.

I respectfully submit that Section 5.4 has not yet adequately bridged that analytical gap.

II. STAFF'S OWN INVESTIGATION ESTABLISHES THE HISTORICAL SIGNIFICANCE OF THE CATHERINE KILKENNY RESIDENCE

Staff deserves credit for independently examining the historical record rather than simply accepting the applicant consultant's conclusion.

Staff reviewed the professional materials, public comments, and additional historical information and conducted its own research. That investigation resulted in a determination that the Catherine Kilkenny Residence qualifies as a historical resource under two California Register criteria.

A. Association With Catherine Kilkenny

Staff found the residence significant under Criterion 2 because of its association with Catherine Kilkenny.

Staff's own historical discussion recognizes Catherine Kilkenny's role in the growth of the Kilkenny family's agricultural landholdings in the Vacaville area. The residence was her home and remained associated with the Kilkenny family for decades.

This historical association is inseparable from the rural agricultural landscape in which the residence was constructed and in which Catherine Kilkenny and her family lived and conducted their affairs.

B. Association With Master Builder George H. Sharpe

Staff separately determined that the residence qualifies under Criterion 3 because of its association with its builder, George H. Sharpe.

Staff describes Sharpe as a local master builder/contractor in Solano County and particularly in the Vacaville area. Staff further determined that, notwithstanding alterations to the residence over its long history, its association with Sharpe remains historically significant.

Thus, Staff's eligibility determination is not based upon a single tenuous historical connection. Staff has identified significance both through the life and activities of Catherine Kilkenny and through the architectural and construction history associated with George H. Sharpe.

The later project record reinforces that point. The applicant's May 2026 revised cultural-resources materials expressly acknowledge the CEC consultant's updated evaluation finding the Catherine Kilkenny Residence eligible for the California Register under Criterion 2 for its association with Catherine Kilkenny and Criterion 3 for its Queen Anne architecture and association with master builder George H. Sharpe. Thus, the historical-resource status of the residence is no longer merely a disagreement between a property owner and the applicant's original consultant; it is a determination reflected in the CEC's own review and subsequently acknowledged in the applicant's revised cultural-resources record.

These findings matter because they identify the characteristics and historical associations whose integrity must be considered when evaluating the effect of the Corby BESS.

III. STAFF EXPRESSLY ACKNOWLEDGES THAT THE PROJECT WILL FURTHER DEGRADE THE HISTORIC SETTING

The most important statement in Section 5.4 may be Staff's own description of the Project's effect upon the Catherine Kilkenny Residence:

"The construction activity and subsequent facility would be in direct line of sight of the historic residence further degrading the original setting."

That is not my characterization of the Project's effect. It is Staff's.

This admission deserves considerably more analysis than Section 5.4 presently gives it.

CEQA does not restrict impacts to historical resources to demolition or physical alteration of the historic building itself. CEQA Guidelines section 15064.5 recognizes that a substantial adverse change may result from alteration of a historical resource or its immediate surroundings where that alteration materially impairs the significance of the historical resource.

That principle is particularly important here because Staff itself identifies setting as part of the problem.

The Catherine Kilkenny Residence was not constructed in an urban neighborhood, industrial district, or commercial corridor. It was constructed as a rural residence within an agricultural landscape. The history that Staff relies upon in finding the property significant is itself tied to the Kilkenny family's agricultural presence in this area.

The historical setting is not confined to the present 2.76-acre parcel boundary. When the residence was constructed in 1900, it stood within an approximately 166-acre Kilkenny agricultural property. Following Catherine Kilkenny's death, the 2.76-acre homesite was separated from the larger property in the late 1920s. That legal division did not transform the surrounding land into an urban, commercial, or industrial setting. The surrounding acreage remained in agricultural use. The crops have changed over time—from wheat, oats, and barley historically to predominantly almonds and fallow agricultural ground today—but the fundamental agricultural character of the setting has endured.

That continuity matters. CEQA Guidelines section 15064.5(b)(1) expressly defines a substantial adverse change to include alteration of a historical resource or its immediate surroundings when that alteration materially impairs the significance of the historical resource. The relevant analysis therefore cannot be confined to whether the residence itself, now located on a 2.76-acre parcel, will be physically demolished or altered. It must also address what the Project will do to the agricultural setting in which the residence has existed since 1900 and through which part of its historical significance is conveyed.

The Corby BESS would introduce an industrial energy facility onto more than 40 acres of what has historically been, and remains, the agricultural landscape surrounding the Catherine Kilkenny Residence. Staff itself has already recognized the consequence, finding that the Project would “further degrad[e] the original setting.” The continuity of agricultural use since the residence was constructed makes that finding especially significant. The Project would not merely change what can be seen from the residence; it would introduce a fundamentally different industrial land use into a setting whose agricultural character has persisted for more than a century.

The proposed Corby BESS introduces a major industrial energy facility into that setting.

Staff acknowledges that the Project will further degrade the original setting. Yet the analysis does not adequately explain why that acknowledged degradation will not materially impair the characteristics through which the property's historical significance is conveyed.

That is the missing analytical step.

The Commission should therefore answer a straightforward question: If Staff has determined that the Project will further degrade the original setting of a recognized historical resource, what substantial evidence demonstrates that this degradation will not materially impair the historical significance of that resource?

Section 5.4 should answer that question directly before the Commission approves the Project.

IV. CUL-7 ADDRESSES VISIBILITY, BUT STAFF HAS IDENTIFIED AN IMPACT TO HISTORIC SETTING

Staff relies upon Condition of Certification CUL-7 to reduce the impact to the Catherine Kilkenny Residence to less than significant.

CUL-7 requires development of a visual screening plan. Among other things, it calls for landscaping sufficient to block sight lines from the residence, contemplates the use of mature trees and shrubs to avoid an extended growth period, and requires burial of certain electrical tie-lines near the residence.

Those measures may reduce the visibility of portions of the Project.

But Staff's own finding identifies a different and broader problem.

Staff says the Project will further degrade the original setting of the historical resource.

Screening the Project from view and preserving the historic setting are not necessarily the same thing.

A row of trees or shrubs may eventually conceal an industrial facility from a particular vantage point. But concealing an incompatible development does not necessarily restore or preserve the historical setting that the development has altered.

That distinction is particularly clear here. Landscaping may eventually screen batteries, inverters, transformers, and other Project components from particular viewpoints, but it cannot restore more than 40 acres of agricultural land after that land has been converted to an industrial energy facility. Screening may conceal the new industrial use; it does not make the land behind the screen agricultural again or preserve the continuity of the historic agricultural setting.

This distinction is critical.

If the historical impact identified by Staff were simply "the owners will be able to see the BESS," screening might logically address that problem.

But that is not what Staff wrote.

Staff identified degradation of the original setting.

The Commission should therefore explain how a landscaping screen prevents the Project from materially altering the setting rather than merely preventing occupants of the historical residence from seeing portions of that alteration.

V. CUL-7 RELIES UPON A LANDSCAPE PLAN THAT DOES NOT YET EXIST

There is a second problem with Staff's reliance upon CUL-7.

The actual landscape screening plan upon which Staff relies for its less-than-significant conclusion is not presently before the public or the Commission.

CUL-7 establishes general requirements and requires preparation of a future landscape screening plan. The verification provision contemplates later submission of that plan before the applicant contracts for the landscaping improvements.

The plan is therefore not something the public can presently examine.

We cannot presently evaluate the precise location and density of the screening, the species proposed, the heights of installed vegetation, long-term survival, irrigation requirements, replacement requirements, maintenance obligations, or the actual degree to which the screening will obscure the BESS and related infrastructure.

Most importantly, the future plan cannot presently demonstrate whether it will protect the historical integrity of the Catherine Kilkenny Residence's setting.

There is an important distinction between establishing a goal of reducing an impact to less than significant and demonstrating through substantial evidence that an enforceable mitigation measure will actually accomplish that result.

CEC should not leave that distinction unresolved.

Before relying upon CUL-7 to support a less-than-significant conclusion, the Commission should identify objective, enforceable performance standards sufficient to demonstrate that the acknowledged impact to the historical resource will actually be mitigated.

VI. THE NATIONAL REGISTER NOMINATION PROVIDES ADDITIONAL HISTORICAL INFORMATION

My wife and I have submitted an application seeking listing of the Catherine Kilkenny Residence in the National Register of Historic Places.

I recognize that submission of a National Register nomination does not itself establish National Register eligibility, and I do not rely upon the pending nomination for that proposition.

Nor is it necessary to do so.

CEC Staff has already independently determined that the residence qualifies as a historical resource for purposes of its analysis.

The National Register research is relevant for a different reason. It contains extensive historical information concerning Catherine Kilkenny, George H. Sharpe, the residence's construction and architecture, the Kilkenny family's agricultural history, historical photographs, and the development of the property over time.

To the extent that information assists the Commission in understanding which characteristics of the residence and its surroundings convey its historical significance, it should be considered as part of the administrative record.

VII. ARCHAEOLOGICAL SURVEY COVERAGE WARRANTS FURTHER EXPLANATION

My principal firsthand knowledge concerns the Catherine Kilkenny Residence. I cannot personally attest to the presence or absence of buried archaeological resources elsewhere within the Project area.

Staff's own analysis, however, identifies a question that warrants further explanation.

Staff reports that approximately 145 acres were intensively surveyed but that approximately 16.5 acres of the archaeological study area were not subjected to pedestrian survey because those areas were inaccessible.

Staff also performed a subsurface sensitivity analysis using geological, soil, and geoarchaeological information. I recognize that analysis and do not suggest that Staff simply ignored the possibility of buried resources.

However, Staff's analysis characterizes the potential for buried archaeological deposits as low to moderate—not nonexistent.

That conclusion should also be reconciled with CEC's earlier Notice of Preparation. In that notice, CEC stated that ground disturbance could encounter and damage buried resources meeting California Register criteria and described the resulting impact as likely significant under CEQA, with mitigation to be evaluated in the EIR. If the Staff Assessment now concludes that monitoring and inadvertent-discovery procedures are sufficient to reduce that concern to less than significant, the record should identify the evidence and analysis that support that change.

The combination of unsurveyed acreage and an acknowledged low-to-moderate potential for buried resources raises a reasonable question concerning Staff's reliance upon monitoring and inadvertent-discovery procedures during construction.

The Commission should explain why the presently unsurveyed portions of the study area need not be surveyed before ground disturbance where access becomes available, and why discovery procedures during construction provide adequate protection for resources that may be damaged before their presence is recognized.

VIII. THE TRIBAL CONSULTATION RECORD SHOULD BE CLARIFIED

I likewise do not claim personal expertise concerning Tribal Cultural Resources or speak on behalf of any California Native American tribe.

The Staff Assessment nevertheless contains a consultation history that warrants clarification.

Staff describes outreach undertaken by both the applicant and CEC. The earlier applicant outreach reportedly resulted in the Yocha Dehe Wintun Nation identifying the Project area as lying within its aboriginal territory, expressing cultural interest in the area, and indicating a desire to initiate formal consultation with the lead agency.

The applicant's own cultural-resources record provides additional context. It reports that Yocha Dehe Wintun Nation stated in July 2024 that the Project lies within its aboriginal territories and that the Nation wished to initiate formal consultation with the lead agency. It also reports an October 3, 2024 meeting with tribal representatives, who requested a copy of the cultural-resources report, cultural training for construction staff, and inclusion of the Nation's Tribal Historic Preservation Officer as a designated contact in the Unanticipated Discoveries Plan. Those are concrete expressions of cultural interest in the Project area and make the later statement that CEC received no tribal responses especially important to explain.

CEC subsequently sent its own consultation correspondence and reports that it did not receive tribal responses to that outreach.

Those statements may be entirely reconcilable, but the sequence should be explained clearly in the Final Staff Assessment.

Given the earlier expression of interest in formal consultation, the Commission should clarify what follow-up occurred, whether the Tribe's earlier request was communicated to and considered by CEC, and how the consultation record supports Staff's ultimate conclusion regarding Tribal Cultural Resources.

This request does not require disclosure of confidential tribal information or locations of sensitive cultural resources. It requires only a clear description of the non-confidential procedural history supporting the Commission's determination.

IX. REQUESTED ACTION

Before approving the Corby BESS Project, I respectfully request that the California Energy Commission revise Section 5.4 and the applicable Conditions of Certification to:

1. Explain how Staff's acknowledged "further degradation" of the Catherine Kilkenny Residence's original setting will not materially impair the significance of the historical resource.
2. Identify the substantial evidence supporting Staff's conclusion that CUL-7 will reduce the identified historical-resource impact to less than significant.
3. Distinguish between screening the Corby BESS from view and preserving the historical setting of the Catherine Kilkenny Residence.
4. Establish objective and enforceable performance standards for CUL-7 sufficient to demonstrate before Project approval that the mitigation will actually address the identified historical-resource impact.

5. Explain the treatment of the approximately 16.5 acres that were not pedestrian-surveyed and whether those areas will be surveyed before ground disturbance if access becomes available.
6. Clarify the non-confidential tribal consultation history, particularly the relationship between the earlier Yocha Dehe Wintun Nation expression of interest in formal consultation and CEC's subsequent outreach.
7. Respond specifically to these issues in the Final Staff Assessment rather than relying upon a general conclusion that compliance with the Conditions of Certification will reduce all cultural-resource impacts to less than significant.

X. CONCLUSION

CEC Staff deserves credit for independently investigating the Catherine Kilkenny Residence rather than simply accepting the applicant consultant's conclusion that the property lacked sufficient historical significance.

Staff's investigation resulted in an important determination: the Catherine Kilkenny Residence is a historical resource eligible for the California Register.

Having reached that conclusion, however, the Commission must carry its analysis through.

Staff has expressly acknowledged that construction and operation of the Corby BESS would be in the direct line of sight of the historical residence and would further degrade its original setting.

That finding cannot simply disappear because landscaping is proposed.

The Commission must determine whether the Project's acknowledged degradation of the historic setting materially impairs the historical resource—not merely whether enough vegetation can eventually be placed between the residence and the Project to make the Project less visible.

The Catherine Kilkenny Residence has stood in this rural agricultural setting since 1900. Its historical significance, as recognized by CEC Staff itself, derives from the people who lived here, the master builder who constructed it, and the history of this place.

If the Commission determines that a major industrial facility may be introduced into that setting without causing a significant cultural-resource impact, the administrative record should clearly and convincingly explain why.

At present, Section 5.4 does not do so.

For these reasons, I do not support approval of the Corby BESS at the proposed Kilkenny Road site. The Commission should not approve the Project while the Staff Assessment acknowledges degradation of the setting of a recognized historical resource yet leaves the significance of that impact dependent upon future screening and unresolved analysis. These concerns further support consideration of an appropriate industrial location rather than imposing this industrial facility upon the rural agricultural setting that gives context to the Catherine Kilkenny Residence.

In addition to these comments, I formally incorporate by reference and fully support the technical comment letter submitted by Keep Vacaville Safe.

Respectfully submitted,

Michael Geller

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