

DOCKETED

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Response to Agriculture Section of Staff Assessment & Draft EIR

Additional submitted attachment is included below.

September 10, 2026

California Energy Commission

715 P Street

Sacramento, CA 95814

Re: Docket No. 24-OPT-05 – Written Comment on the Staff Assessment – Section 5.8 - Corby Battery Energy Storage System Project

Dear Honorable Commissioners,

After careful review of Section 5.8 of the Corby Battery Energy Storage System Project Staff Assessment, I urge the Commissioners to reconsider the staff's assessments and conclusions that the applicant's project poses a less than significant impact to agriculture.

Though staff provides a list of local laws, ordinances, regulations, and standards (LORS), it fails to identify "Measure T" adopted by Solano County voters in 2008 as an update and extension of the County's 1994 Orderly Growth Initiative and in effect until December 31, 2028. In essence, the conversion of agricultural or open-space land within the unincorporated areas of the County cannot occur without voter approval. Rather, staff seems to focus its analysis and basis for decision making on other factors within both Solano's and Vacaville's LORS. Failure to acknowledge Measure T not only makes the staff's assessment incomplete, but also fails to reconcile CEC's authority through the Opt-In Process and whether said authority includes disenfranchising voters on decisions concerning the conversion of agricultural land to other uses. The staff assessment must clearly state under what specific basis the CEC may not consider, or can completely disregard, Measure T.

With respect to Environmental Impacts outlined in Section 5.8.2 and its subsections, the staff assessment goes to great lengths to trivialize this project's impact on agriculture to provide a "Less Than Significant with Mitigation Incorporated" rating. In the process of doing so, staff creates an unequal applicability of standards, outsources farmland conversion to the applicant and a third party without any validation, verification, or consequence for non-compliance, and makes assumptions of farming and farming operations without citation of any experts nor any actual field studies, including that of any farmers or orchard managers within the project's impact area. Lastly, the staff assessment fails to make any mention of any impacts related to the end of operations, estimated to be about 30 years from now.

Regarding the unequal applicability of standards, this assessment doesn't look at the impact to the displaced acreage in its totality (61.8 acres based on Table 5.8-3) but rather breaks the project into two – land within Solano County and land within Vacaville's City limits. This doesn't make sense for the following:

1. The applicant has a single project and a single opt-in for consideration. The project's scale, not county/city boundaries should drive analysis. Based on the assessment, the project cannot be accomplished without land in both jurisdictions being impacted.
2. The assessment upholds the County's agricultural land mitigation ratio of 3:1 yet completely sets aside and disregards Vacaville 1:1 mitigation ratio. The decision arbitrarily denies Vacaville equal protection the County is afforded to the betterment of the applicant, not the community itself.
3. Rather than a comprehensive, all-inclusive analysis, the application of two different land evaluations serves only to reduce the project's impact to "Less Than Significant" and elevates the applicant's position to the detriment of Solano County, the City of Vacaville, and their residents.

On the topic of mitigating the loss of Important Farmland and its features, the assessment fixates on the fallow status of the project site (4 years), either to somehow implicate said land may not be "Important Farmland" with all of its attributes or further diminish the impact of its loss to an industrial use. Regardless of the land's current status, it remains within the Department of Conservation's Farmland Mapping and Monitoring Program until it's next update cycle. The assessment completely misses the most obvious point – the land was purchased by NextEra/Corby Energy LLC on, or around 2022, with the sole interesting of not performing any farming or other agricultural activity. It would make little sense for an energy developer who has designs to build a BESS facility to conduct farming operations. The fallow land statement is a red herring to distract this commission and the public of the magnitude of this project.

Even with honoring Solano County's mitigation ratio, the staff assessment fails to set demonstrable, quantifiable, and qualifiable criteria on the land to be conserved. Rather, it simply directs the applicant to enter into an agreement with the Solano Land Trust (SLT) to establish a "suitable location" of at least 122.4 acres of Department of Conversation designated Important Farmland. This generality fails in the following areas:

1. It doesn't explicitly stipulate the conserved acreage be a contiguous area like the land it would replace.
2. It fails to explicitly stipulate the conserved acreage contains - in the same or better ratios as the land it would replace - Prime Farmland, Farmland of Statewide Importance, or Unique Farmland.

3. It fails any attempt to identify areas within Solano County that may meet any land quality criteria. This is a punt of responsibilities to the applicant and a third party without stipulated consequences for non-compliance on either.
4. Zero guarantees outlined within the assessment that any conversion is serving the interests of Solano County, its residents, or its objectives of preserving land.

Beyond the assessment's deficiencies in evaluating agricultural land and its mitigation activity, the assessment merely skims the surface of agricultural impacts when discussing construction and operation. The assessment indicates the construction and operation of the facility is "less than significant with mitigation," an opinion heavily reliant on the applicant's docket submissions vs. independent evaluation by agricultural experts. Though the staff concludes the project would neither change any adjacent farmland to the project site to non-agricultural use, nor change adjacent land in the gen-tie ROWs to non-agricultural use, has the CEC independently done the following:

1. Conducted soil studies of micro-organisms, the flow of water, ground water deposits, and the flow of nutrients through both the project site, the gen-tie areas, and the adjacent farmlands?
2. Engaged independent agricultural operations experts to ascertain if disruption of land may have a ripple detrimental impact to surrounding farmlands not part of the project or to remaining orchards in the gen-tie fields?
3. Evaluated if any construction site material, by products, or pollutants may contaminate ground water, disrupt nutrient flow, or disrupt soil micro-organisms in adjacent fields and within the gen-tie ROWs?
4. Evaluated if any water used above ground during construction at the project site or within the gen-tie ROWs may carry any construction waste into adjacent parcels?
5. Created any mitigation plans if #1-#4 come to fruition?

From an economic impact on agricultural land and its production, both inside Solano County and within Vacaville's City Limits, the assessment fails to consider the following factors during construction and operation:

1. Fails to evaluate, through independent analysis, if construction and operation of a BESS project diminish land value to the adjacent non-project parcels and within the gen-tie areas.
2. Fails to evaluate, through independent analysis, if construction and operation of a BESS project would diminish crop value to the adjacent non-project parcels and within the gen-tie areas.
3. Fails to evaluate, through independent analysis, if construction and operation of a BESS project within an agricultural setting poses either higher homeowner/commercial/crop

insurance rates, non-renewal, or outright cancellations for the surrounding residents and/or farmers.

4. Fails to identify any mechanism to conduct either pre- or post-construction evaluation or analysis of #1-#3, including any mitigation.
5. Fails to evaluate how a fire, explosion, or any other unplanned operational failure may impact #1 - #3, including any mitigation.
6. Fails to provide Solano County, the City of Vacaville, or the nearby property owners any remedies if the applicant undertakes any activity before, during, or after construction that may damage, diminish, or devalue adjacent land or its yields.

On the topic of metal deposition on Agricultural Soils from a Hypothetical BESS fire, Appendix LU requires more substantive evaluation. This portion of the assessment mentions “determining the natural background levels of Lithium and Aluminum in the area of Solano County located near the facility,” yet there’s no mention of any specific soil tests performed either at the project site or from adjacent properties. Rather, it’s based on more generic mentions of soil composition in the Western United States and Solano County in general. Since the assessment calls out the sensitivity of almonds to Lithium, a crop recently reported in the Daily Republic as valued at \$108M to the local economy greater scrutiny and more localized soil evaluation ought to be made vs. what appears to be assumptions about broad land areas.

Appendix LU models lithium and aluminum solely based on an air dispersion model and a fire of a set duration (6 hours).

1. Why was six hours chosen?
2. How much of the planned facility is suffering from a fire event?
3. What if concurrent or even successive situations occurred in which the proposed Vaca-Dixon Power Center and Corby 2 were experiencing fire events either simultaneously or within days of one another?
4. No mention is made of any contaminants falling within sprayed water that may be used to keep surrounding batteries cool during an event like a thermal runaway. If that water is absorbed by the ground or flows to adjacent areas for soil absorption and into the underground water, wouldn’t that pose a risk for absorption by nearby orchards? Wouldn’t this pose an unmitigated, potentially significant impact on agricultural productivity and food safety under CEQA Guidelines?

Section 5.8 fails to seriously address cumulative effects of other planned BESS projects like the Vaca-Dixon Power Center and Corby 2. In fact, with respect to the Vaca-Dixon Power Center, the assessment is prejudicial with CEC staff stating its smaller footprint would be inconsequential and that **both** Corby and Vaca-Dixon have “fire prevention systems to avoid a fire starting or propagating to a thermal runaway event” and that neither “construction nor operation of the

proposed project is expected to combine with the efforts of other projects to create a cumulative impact to adjacent Farmland.”

1. Vaca-Dixon’s application hasn’t been deemed complete by the CEC, so how can the CEC staff offer an opinion on its systems or its impacts to farmland if that applicant hasn’t completed all of the required documentation the CEC expects?
2. Has the CEC already pre-determined that the number of BESS in a given location is an irrelevant consideration?
3. If the fire prevention systems are so efficient at avoiding a fire starting or letting it continue to a thermal runaway event, then why, by the staff’s own assessment (page 1342 in Appendix D), have 62.5% of incidents at BESS facilities installed in the last 5 years involved a fire?

To conclude, the Commissioners should see that Section 5.8 is flawed. From ignoring key land use provisions like Measure T, the unequal application and protection of consumed land between Solano County and the City of Vacaville, the failure to weigh any economic impact to local residents who would border the project, and brush-aside (and state a pre-determination on the Vaca-Dixon Power Center Project), the staff assessment kowtows to an \$185B energy developer. In essence, it’s just land that can be preserved elsewhere without consideration what this project will do over a 30-year period on a local scale.

If this is unanimously the best, most logical use of land, then why have so many local residents stood opposed and why have their elected representatives suggested other parts of the County available for this development? I hope you can see, for such a significant, and permanent alteration of land from farming to industry, that both the developer and the State can do better, have better, and balance not only California’s energy goals, but also uphold the fundamental tenant of government – the equal protection and application of law to everyone.

Please address the questions and deficiencies stated within this response. In addition to my comments, I formally incorporate by reference and fully support the technical comment letter submitted by Keep Vacaville Safe.

Sincere regards,

Derek Johnson

Vacaville Resident