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**Critical Statutory Deficiencies, Unaddressed Significance
Thresholds, And Numerical Discrepancies**

Additional submitted attachment is included below.



CORBY BATTERY ENERGY STORAGE SYSTEM PROJECT

Docket No. 24-OPT-05

SUBJECT: Comment Regarding Critical Statutory Deficiencies, Unaddressed Significance Thresholds, And Numerical Discrepancies In The Draft Staff Assessment

Dear CEC Commissioners and Staff,

Please accept these formal comments submitted for the record by **Keep Vacaville Safe** regarding the Draft Staff Assessment (SA) for the proposed Corby Battery Energy Storage System (BESS) Project (Docket No. 24-OPT-05). On behalf of community members, residents, and stakeholders dedicated to protecting public safety, agricultural heritage, water resources, and environmental quality in Solano County, we appreciate the opportunity to participate in this proceeding. However, a detailed review of the environmental, land use, and public health analyses in the Staff Assessment reveals fundamental flaws that undermine the validity of the document under the California Environmental Quality Act (CEQA) and the Commission's opt-in certification standards.

Specifically, the Staff Assessment contains critical instances where Staff's own modeling outputs, raw technical data, and screening calculations explicitly cross or exceed established significance thresholds. Rather than identifying these exceedances as significant environmental impacts requiring mandatory mitigation or alternative site considerations, the document arrives at findings of "less than significant" or marks the project in full compliance with Laws, Ordinances, Regulations, and Standards (LORS). In multiple instances, these findings are reached by omitting mandatory health risk assessments, misapplying agricultural evaluation models through spatial segmentation, bypassing gross indirect emissions accounting, mischaracterizing local noise standard exceedances, or discounting impacts to water supplies, biological species, air quality, and local fire protection capacity.

The Energy Commission cannot lawfully certify this facility based on an assessment that disregards its own threshold rules and internal analytical findings. Prior to any decision

regarding project approval or certification, Staff must rectify the eight critical technical and analytical deficiencies detailed below.

1. Greenhouse Gas (GHG) Emissions Threshold Accounting

- **Finding:** Section 8.2 (SA PDF pp. 407, 410, 413, 414) adopts a CEQA significance threshold of **900 MTCO₂e/year**, but Staff compares only 171 MTCO₂e/year of direct operational emissions to this limit while reporting **8,913 MTCO₂e** in gross indirect emissions. Staff nets these emissions against expected clean-energy grid displacement rather than evaluating the gross exceedance directly against the adopted threshold.
- **Formal Inquiries:**
 1. What is the legal and technical justification under CEQA for not testing gross indirect emissions against the adopted 900 MTCO₂e threshold?
 2. How does Staff account for indirect emissions if clean-energy grid displacement assumptions do not materialize at predicted levels?

3. Segmentation of Farmland LESA Model Scoring

- **Finding:** In Section 3.3 (SA PDF pp. 679–680), Staff ran the California Land Evaluation and Site Assessment (LESA) model separately for the 21-acre transmission corridor (deriving a Land Evaluation subscore of **18.5**), whereas calculating across the entire **61.8-acre footprint** yields a weighted subscore of **24.5** crossing the 20-point gate that triggers mandatory agricultural conservation mitigation.
- **Formal Inquiries:**
 1. What regulatory guideline allows the spatial segmentation of a single project's linear features from its main facility when determining LESA threshold gates?
 2. Will Staff re-evaluate the project site holistically under the LESA model to determine whether mandatory agricultural conservation mitigation is required?

4. Noise Standard Exceedance at Receptor Rec02

- **Finding:** In Section 8.6 (SA PDF pp. 716, 724, 730, 734), Staff reports an unmitigated noise level of **87 dBA** L_{eq} at Rec02. Applying the 15 dBA reduction from Condition NOISE-6 results in a mitigated noise level of **72 dBA** L_{eq} , which exceeds Solano County's **65 dBA** property line standard by 7 dBA. Despite this

clear numeric exceedance, Staff's LORS conformance table marks compliance as "Yes."

- **Formal Inquiries:**

1. On what technical basis does the LORS conformance table mark compliance as "Yes" when the mitigated level (72 dBA) remains above the local threshold (65 dBA)?
2. What additional enforceable noise attenuation measures will be required to bring construction levels into full LORS compliance?

5. Groundwater Depletion and Local Hydrogeology

- **Finding:** Section 5.9 (SA PDF pp. 812–818) evaluates water demand in a Solano Subbasin subject to historical overdraft without presenting localized pumping test data or executed water hauling contracts to substantiate its less-than significant finding.

- **Formal Inquiries:**

1. Has Staff conducted localized hydrogeologic drawdown modeling to verify that construction and fire testing water draws will not deplete neighboring wells?
2. Will executed, binding commercial water supply agreements be required as a condition precedent prior to certification?

6. Swainson's Hawk Foraging Habitat Mitigation Ratios

- **Finding:** Section 5.2 (SA PDF pp. 510–516) documents active Swainson's hawk nests within 1.2 to 3.5 miles, but discounts portions of the 61.8-acre site as "disturbed agricultural land" to artificially lower the required mitigation acreage.

- **Formal Inquiries:**

1. What specific botanical and foraging survey criteria were used to exclude active agricultural acreage from Swainson's hawk habitat calculations?
2. Has CDFW concurred in writing with the reduced mitigation acreage calculation?

7. Fugitive Dust PM₁₀ Peak Construction Emissions

- **Finding:** Section 5.1 (SA PDF pp. 445–452) CalEEMod outputs show peak unmitigated grading emissions clearing the YSAQMD significance threshold of **80 lbs/day for PM₁₀**. Staff classifies the pre-mitigation impact as less than significant upfront by assuming standard dust control measures will succeed.

- **Formal Inquiries:**

1. Why is the pre-mitigation impact classified as less than significant before demonstrating the quantified efficacy of fugitive dust controls?
2. Will continuous PM₁₀ perimeter monitoring be mandated as an enforceable Condition of Certification?

8. Wildfire Safety and Local Emergency Response Burdens

- **Finding:** Section 5.14 (SA PDF pp. 1012–1020) relies on standard local development fee payments to find impacts to emergency services less than significant, despite formal statements from Vacaville Firefighters Union and Dixon Fire Depts, regarding specialized BESS hazmat equipment deficits that standard fee structures do not cover.

- **Formal Inquiries:**

1. Has Staff conducted a specific equipment gap analysis with the Vacaville Fire regarding thermal runaway response capabilities?
2. How will standard fee payments cover specialized non-standard BESS emergency infrastructure if local fee structures do not account for BESS technology?

Conclusion

Keep Vacaville Safe respectfully requests that the Energy Commission direct Staff to address these technical discrepancies, perform required environmental and health risk screenings, and provide formal written responses to these eight inquiries in the Final Staff Assessment.

Respectfully submitted,

Keep Vacaville Safe

On behalf of local residents and community members