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**CONDITIONS OF CERTIFICATION THAT DELAY SUBSTANTIVE
INFORMATION, DEFER MATERIAL ANALYSIS, OR LIMIT
MEANINGFUL PUBLIC REVIEW**

Additional submitted attachment is included below.

CALIFORNIA ENERGY COMMISSION

Corby Battery Energy Storage System Project

Docket No. 24-OPT-05

RE: COMMENTS REGARDING CONDITIONS OF CERTIFICATION THAT DELAY SUBSTANTIVE INFORMATION, DEFER MATERIAL ANALYSIS, OR LIMIT MEANINGFUL PUBLIC REVIEW

Submitted by Linda Geller

September 14, 2026

I submit these comments regarding Conditions of Certification (COCs) in the Corby Battery Energy Storage System Staff Assessment/Draft EIR that postpone plans, surveys, technical studies, performance criteria, emergency-response arrangements, mitigation details, baseline information, or verification until after certification. The concern is not that every future compliance submittal is improper. Construction drawings, personnel designations, reporting forms, and other implementation details may appropriately be completed later. The concern is materially different where Staff reaches a present less-than-significant or less-than-significant-with-mitigation conclusion while information needed to understand the impact, evaluate the effectiveness of mitigation, or test the conclusion will not exist until after certification.

This timing also affects public participation. When project-specific surveys, baseline studies, emergency plans, sampling protocols, performance standards, engineering designs, or verification studies are first developed after certification, the public cannot meaningfully review those materials while the environmental document is under consideration. The comments below therefore distinguish ordinary implementation details from delayed information that may be material to the significance determination itself.

I. CEQA Framework Governing Deferred Mitigation

Public Resources Code § 21002: California policy is that agencies should not approve projects as proposed when feasible alternatives or mitigation measures are available that would substantially lessen significant environmental effects. The statute states that CEQA procedures are intended to help agencies systematically identify significant effects and feasible alternatives or mitigation measures that avoid or substantially lessen those effects.

Public Resources Code § 21002.1: An EIR must identify significant environmental effects, identify alternatives, and indicate how significant effects can be mitigated or avoided. The lead agency must mitigate or avoid significant environmental effects whenever feasible.

Public Resources Code § 21081.6: When an agency adopts mitigation to support its findings, it must adopt a monitoring or reporting program designed to ensure compliance during project implementation, and mitigation measures must be fully enforceable through permit conditions, agreements, or other measures.

CEQA Guidelines § 15126.4(a)(1)(B): Formulation of mitigation measures shall not be deferred until some future time. Specific details may be developed after project approval only when it is impractical or infeasible to include them during environmental review and the agency: (1) commits itself to the mitigation; (2) adopts specific performance standards the mitigation will achieve; and (3) identifies the types of potential actions that can feasibly achieve those standards.

CEQA Guidelines § 15126.4(a)(2): Mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments.

CEQA Guidelines § 15097: Mitigation monitoring is intended to ensure that adopted mitigation is actually implemented. Monitoring is not a substitute for identifying the mitigation measure and its required performance standard before project approval.

Key distinction. CEQA permits later development of implementation details in appropriate circumstances; it does not permit the agency to postpone the formulation of the mitigation itself. The most serious issues arise where Staff reaches a present “less than significant” or “less than significant with mitigation” conclusion while leaving the later compliance process to determine whether a resource is present, what performance standard will apply, what emergency-response system will be used, or what substantive mitigation will actually be required.

The California Natural Resources Agency's explanation of the current deferred-mitigation rule likewise recognizes that reliance on tentative future mitigation can undermine CEQA's goals of full disclosure and informed decisionmaking. See CEQA Guidelines § 15126.4(a)(1)(B); *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 92.

This creates a concern independent of whether a particular future submittal ultimately proves technically adequate. The question is whether postponement deprived agencies, technical reviewers, affected residents, and other members of the public of a meaningful opportunity to test the analysis, identify omissions, propose alternatives, and comment on the mitigation before project approval.

CEQA Guidelines §§ 15087 and 15105 provide for public review of a draft EIR. The practical value of that review is diminished if material information bearing on environmental significance or the effectiveness of mitigation is postponed until after the decision-making process and public comment period have concluded.

CEQA Guidelines § 15201 states that public participation is an essential part of the CEQA process. Where a significance conclusion depends on a future survey, plan, sampling protocol, performance standard, emergency-response procedure, engineering design, or verification study that is not available until after certification, the public may be unable to evaluate the assumptions, methodology, effectiveness, or adequacy of the information on which Staff relies.

CEQA Guidelines § 15200 identifies the purposes of review of an EIR as including sharing expertise, disclosing agency analyses, checking for accuracy, detecting omissions, discovering public concerns, and soliciting counterproposals. These functions depend on the material environmental analysis being available during the public-review process, rather than first being developed during post-certification compliance.

II. CEQA Public Review and Participation

III. Conditions of Certification That Delay Substantive Information

Page-reference convention. "PDF p." refers to the page number of the 1,403-page Staff Assessment PDF (TN 271468). Where available, the Staff Assessment's printed section-page designation is also provided. For administrative-record use, both references should be retained because electronic viewers and printed section pagination do not always correspond.

COC	Delayed / Future Information	Timing	Why It Warrants Scrutiny	Staff Assessment Page(s)
BIO-6	Biological Resources Mitigation Implementation and Monitoring Plan (BRMIMP), including detailed mitigation, monitoring duration/frequency, performance standards, remedial measures, and multiple subsidiary biological plans.	Draft 45 days before site mobilization; final 10 days before site mobilization.	Very high concern. The Staff Assessment relies on biological COCs to reach significance conclusions, yet BIO-6 leaves important monitoring and performance standards to a later plan. Staff Assessment pp. 343-346 (5.2-127 to 5.2-130).	PDF pp. 341-346; Biological Resources § 5.2 (COC begins in proposed COCs; BRMIMP verification continues through p. 346).
BIO-7	Wildlife Protection and Relocation Plan with protocols for avoiding, handling, salvaging, or relocating wildlife.	Draft 45 days before mobilization; final 10 days before mobilization.	High concern where the later plan determines how sensitive wildlife will actually be protected. Staff Assessment pp. 348, 352 (5.2-132, 5.2-136).	PDF pp. 346-352; § 5.2-130 to 5.2-136.
BIO-8	Vegetation Restoration Plan, including restoration implementation, monitoring, success criteria, and remedial work.	Draft 30 days before revegetation or within 6 months after certification, whichever is first; final 10 days before revegetation.	Moderate to high concern. Some standards are stated, but implementation details and later modifications are deferred. Staff Assessment pp. 352-355 (5.2-136 to 5.2-139).	PDF pp. 352-355; § 5.2-136 to 5.2-139.
BIO-9	Crotch's bumble bee habitat assessment and, if suitable habitat is identified, focused protocol-level surveys.	Conducted after certification as a preconstruction compliance activity; results submitted after completion.	Very high concern. Information bearing on whether suitable nesting/overwintering/foraging habitat and the species itself are present is generated after certification. Staff	PDF pp. 355-356; § 5.2-139 to 5.2-140.

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COC	Delayed / Future Information	Timing	Why It Warrants Scrutiny	Staff Assessment Page(s)
			Assessment pp. 355-356 (5.2-139 to 5.2-140).	
BIO-10	Monarch butterfly host-plant survey and, if host plants are found, survey for eggs, larvae and pupae.	No more than 2 days before vegetation trimming/removal.	High concern because biological presence information is not resolved during environmental review. Staff Assessment pp. 356-357 (5.2-140 to 5.2-141).	PDF pp. 356-357; § 5.2-140 to 5.2-141.
BIO-11	Northwestern pond turtle and nest survey; if detected, site-specific avoidance/relocation or nest protection plans.	Within 48 hours before mobilization/construction; responsive plan prepared if species/nests are found.	High concern because both occurrence information and potentially consequential protective measures are left to immediate preconstruction compliance. Staff Assessment p. 357 (5.2-141).	PDF pp. 357-358; § 5.2-141 et seq.
BIO-21	Post-BESS Fire Monitoring and Management Plan addressing post-fire ecological monitoring, soil testing, remedial actions, runoff containment and restrictions during sensitive biological periods.	Developed post-certification as a compliance plan before mobilization/construction.	Very high concern because Staff cites BIO-21 in support of less-than-significant biological conclusions for BESS-fire effects while the substantive plan is developed later. Staff Assessment pp. 318-320 and 381 (5.2-102 to 5.2-104; 5.2-165).	PDF p. 381 et seq.; Biological Resources § 5.2.
WORKER SAFETY-1	Construction Health and Safety Program, including Construction Emergency Action Plan, Emergency Response Plan, and Construction Fire Prevention Plan.	90 days before construction.	High concern because emergency-response and fire-prevention details are deferred while Staff relies on the COC in impact conclusions. Staff Assessment p. 167 (4.4-51).	PDF pp. 166-168 (proposed COCs); discussion also pp. 125-130.
WORKER SAFETY-2	Operations and Maintenance Safety and Health Program, including Operations Emergency Action Plan, Operations Emergency Response Plan, Fire Prevention Plan, Fire Protection System Impairment Program, and hazardous-materials program.	30 days before commissioning.	Very high concern because major operational fire and emergency-response systems are not finalized during environmental review. Staff Assessment pp. 167-168 (4.4-51 to 4.4-52).	PDF pp. 167-169 (proposed COCs); discussion also pp. 127-130.
WORKER SAFETY-6	Final BESS system specifications and design drawings demonstrating NFPA 855 compliance.	90 days before BESS construction.	High concern to the extent final design characteristics materially affect fire behavior, separation, suppression, access, or emergency response. Staff Assessment p. 170 (4.4-54).	PDF p. 170 et seq.; Worker Safety & Fire Protection § 4.4.
WORKER SAFETY-7	Fire-protection design and equipment, command-and-control protocol, gas detectors, adequate water supply, hydrant connections, and potentially additional tanks, fittings, monitors or water tenders.	Generally 60 days before construction; updated information later if BESS manufacturer changes.	Very high concern. Important fire-water and response infrastructure may remain unresolved until the compliance phase. Staff Assessment pp. 170-172 (4.4-54 to 4.4-56).	PDF pp. 170-172; discussion pp. 142-155.
WORKER SAFETY-8	Initial BESS fire training and annual joint/tabletop training program with Dixon Fire Department.	Documentation 30 days before commissioning.	High concern because responder preparedness is treated as future implementation. Staff Assessment pp. 172-173 (4.4-56 to 4.4-57).	PDF p. 172 et seq.; discussion pp. 153-155.
WORKER SAFETY-10	Toxic-air-contaminant monitoring drone specifications and delivery to Dixon Fire Department.	Specifications 60 days before commissioning; delivery before commissioning.	Moderate concern; implementation is concrete, but the actual equipment capability is selected later. Staff Assessment p. 173 (4.4-57).	PDF p. 173 et seq.; discussion p. 162.
HAZ-6	Soils Management Plan with procedures for unknown contamination, worker/public protection, monitoring, runoff controls and disposal.	45 days before ground disturbance.	Moderate to high concern because site-specific contamination response protocols are developed after certification. Staff	PDF pp. 651-653; Hazards § 5.7; discussion pp. 635-637.

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COC	Delayed / Future Information	Timing	Why It Warrants Scrutiny	Staff Assessment Page(s)
			Assessment pp. 651-652 (5.7-51 to 5.7-52).	
HAZ-9	Post-fire Sampling and Analysis Plan for on- and off-site soil, surface-water, groundwater and firefighting-water sampling.	120 days before BESS operations.	Very high concern where Staff relies on future post-fire sampling to reduce or characterize environmental/public-health risk. Staff Assessment pp. 653-654 (5.7-53 to 5.7-54).	PDF pp. 653-654; § 5.7-53 to 5.7-54; significance discussion p. 634.
HAZ-11	Sampling and Analysis Plan and Phase II Environmental Site Assessment for baseline agrichemicals and other historical contamination.	SAP 90 days before construction; Phase II ESA 45 days before ground disturbance.	Very high concern because baseline site-contamination information is being generated after certification. Staff Assessment pp. 654-655 (5.7-54 to 5.7-55).	PDF pp. 654-655; § 5.7-54 to 5.7-55.
PH-1	BESS Emergency Response Plan for thermal-runaway non-fire, fire and explosion scenarios; emergency notification system for nearby occupants.	ERP 120 days before BESS operations; notification system demonstrated 30 days before operations.	Extremely high concern because Staff concludes public-health impacts are less than significant with implementation of COCs while the project-specific ERP and public-warning system are developed later. Staff Assessment pp. 759-760 (5.10-21 to 5.10-22).	PDF pp. 759-760; § 5.10-21 to 5.10-22.
PH-2	Real-time air-monitoring contractor and Sampling and Analysis Plan specifying pollutants, stationary/off-site samplers, mobile monitoring, calibration and responder communication protocols.	SAP 120 days before BESS operations.	Very high concern because Staff uses future real-time monitoring as part of its present public-health significance conclusion. Staff Assessment pp. 760-761 (5.10-22 to 5.10-23).	PDF pp. 760-761; § 5.10-22 to 5.10-23.
CUL-7	Catherine Kilkenny Residence Visual Screening Plan integrated with VIS-2, including screening intended to reduce impacts to the CRHR-eligible Residence.	Plan submitted 90 days before executing landscaping-related purchase contract.	Very high concern. The actual screening configuration and effectiveness are not available for public review during certification even though the condition is intended to mitigate effects to the historic Residence. Staff Assessment p. 504 (Cultural and Tribal Cultural Resources).	PDF p. 504 et seq.; significance reliance at PDF pp. 488-495.
VIS-1	Exterior surface coatings/colors/finishes/materials plan, including a future color-selection study and field testing.	90 days before executing a contract to purchase coatings/materials.	Moderate to high concern because actual visual treatment choices are made after certification. Staff Assessment pp. 899-900 (5.15-63 to 5.15-64).	PDF pp. 899-900; § 5.15-63 to 5.15-64.
VIS-2	Final Vegetative Landscape Screening Plan, including planting plan, sizes, growth rates, expected size at five years/maturity, spacing, number and maintenance.	90 days before executing a landscaping purchase contract.	High concern, particularly because screening assumptions affect visual-resource analysis and the Kilkenny Residence. Staff Assessment pp. 900-901 (5.15-64 to 5.15-65).	PDF pp. 900-901; § 5.15-64 to 5.15-65.
VIS-3	Outdoor Lighting Control / light-pollution plan, including final luminaire types, locations, direction and angles.	90 days before executing a contract to purchase permanent outdoor luminaires.	Very high concern because Staff expressly concludes VIS-3 will reduce nighttime-lighting impacts to less than significant while the operative lighting plan is prepared later. Staff Assessment pp. 898, 902-903 (5.15-62, 5.15-66 to 5.15-67).	PDF pp. 902-903; § 5.15-66 to 5.15-67; significance conclusion PDF p. 898.
TRANSPORTATION CMP	Construction traffic schedule and mitigation plan for roadways along construction routes, with agency review and revisions.	Draft 60 days before construction; comments/revisions 30 days before construction.	Moderate to high concern where traffic effects depend on measures not fixed during review. Staff Assessment p. 834 (5.14-22).	PDF pp. 828-830 discuss draft traffic-control plans. Exact COC designation/timing should be rechecked before external citation.

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COC	Delayed / Future Information	Timing	Why It Warrants Scrutiny	Staff Assessment Page(s)
COM-12	Emergency Response Site Contingency Plan.	No less than 60 days before construction, with additional operational timing requirements.	High concern as another example of project-specific emergency planning being deferred into the compliance phase. Staff Assessment pp. 1188-1189 (Compliance Conditions).	PDF pp. 1188-1189; Compliance Conditions.
WATER-5	Water Quality Control Plan (WQCP) identifying potential impacts and best-practice measures to prevent surface- and groundwater contamination from accidental releases, including a battery thermal-runaway fire. The actual project-specific emergency runoff controls are developed after certification.	WQCP due no later than 30 days before construction.	Very high concern. Staff relies on WATER-5 to support a less-than-significant-with-mitigation water-quality conclusion, yet the condition leaves the actual project-specific BMPs and procedures for contaminated emergency runoff to a later plan. The condition does not itself identify a zero-discharge criterion, specific containment capacity, liner permeability standard, or equivalent engineering performance criterion. This also limits public review of the eventual containment approach.	PDF pp. 1057, 1060, 1067-1068; WATER-5 begins PDF p. 1067 / § 5.16-20.
WATER-3	Groundwater production well installation and permitting. If groundwater is used, the owner later applies for a Solano County well permit and provides installation/testing information during compliance.	Well permitting/installation occurs after certification; testing/correspondence is supplied during operations.	Moderate to high concern. Staff relies on WATER-3 in groundwater and subsidence analyses, but the condition primarily governs future well installation standards and permitting. It does not itself contain a project-specific drawdown threshold, neighboring-well protection trigger, or monitoring response criterion. The investigation should distinguish WATER-3 from construction dewatering and determine whether the underlying hydrogeologic effects were sufficiently evaluated before certification.	PDF pp. 1066-1067; WATER-3 begins PDF p. 1066 and continues p. 1067 / § 5.16-20. Reliance also appears at PDF pp. 94, 554.
NOISE-4	Operational Noise Restrictions and post-startup community noise survey at Rec01. Testing begins when the project first achieves sustained output of 85% or greater of rated capacity; corrective noise controls are implemented if measured levels exceed the condition.	Verification occurs after construction/commissioning, once sustained output reaches at least 85% of rated capacity.	Very high concern. Staff expressly finds operational noise less than significant with mitigation based on NOISE-4, but compliance is verified after the facility is operating. The review should examine whether the survey protocol necessarily captures the reasonably foreseeable worst operating condition, including simultaneous equipment operation and high thermal-management demand, and whether the pure-tone provisions provide an adequate objective standard for low-frequency/tonal effects.	PDF pp. 725-727 (significance analysis); COC text PDF pp. 732-733 / § 5.9-23 to 5.9-24.
GHG - no operational verification COC	Staff estimates indirect operational GHG emissions from round-trip losses and auxiliary loads and predicts a net annual statewide GHG reduction, but expressly recommends no additional GHG COC.	No project-specific operational GHG verification condition is proposed.	High investigation concern. This is not a deferred COC; it is a potential verification gap. Staff estimates 8,913 MTCO ₂ e/year of indirect operational emissions and predicts net displaced emissions of approximately 159,717-220,599 MTCO ₂ e/year, yet the Staff Assessment states that no	PDF pp. 412-413 / § 5.3-16 to 5.3-17; no-GHG-COC conclusion PDF p. 418.

COC	Delayed / Future Information	Timing	Why It Warrants Scrutiny	Staff Assessment Page(s)
			additional climate/GHG COC is recommended. The investigation should determine what enforceable mechanism, if any, verifies the charging/dispatch and operational assumptions underlying the predicted net benefit.	
EFFICIENCY - no operational verification COC	Staff relies on approximately 85% round-trip efficiency as an indicator of efficient energy use and concludes the project would not consume energy wastefully or inefficiently, but adopts no Efficiency and Energy Resources COC.	No project-specific efficiency monitoring COC is proposed.	High investigation concern. This is a potential verification gap rather than deferred mitigation. The record should be examined for any binding requirement to measure annual charging versus discharging energy, round-trip efficiency degradation, auxiliary thermal-management loads, or other lifecycle efficiency assumptions. Staff expressly states there are no proposed COCs for Efficiency and Energy Resources.	PDF pp. 516-518; efficiency analysis at PDF p. 516; no-COC statement PDF p. 518 / § 5.5.5.

IV. Highest-Priority Examples

BIO-6 and BIO-9: BIO-6 is particularly important because the later BRMIMP must contain monitoring duration/frequency, performance standards, remedial measures and multiple subsidiary plans. BIO-9 is separately significant because the Staff Assessment leaves the Crotch's bumble bee habitat assessment and potential protocol-level surveys to the post-certification compliance process.

PH-1 and PH-2: Staff expressly concludes that public-health impacts would be less than significant with implementation of COCs, yet PH-1 leaves the project-specific BESS ERP and public notification system to the period before operations, and PH-2 leaves the detailed real-time air-monitoring SAP to the same post-certification phase.

WORKER SAFETY-2 and WORKER SAFETY-7: These provisions leave major operational emergency-response programs and final fire-water/infrastructure arrangements to later review, including potential additional tanks, hydrants, fittings, water monitors and water tenders.

HAZ-11: The baseline Phase II ESA is not due until 45 days before ground disturbance. That is not merely construction administration; it is environmental information concerning the pre-project condition of the site.

CUL-7 / VIS-2 / VIS-3: The actual screening and lighting plans are developed after certification. VIS-3 is especially important because Staff expressly relies on it to reduce nighttime-lighting impacts to less than significant. CUL-7 is also directly tied to the CRHR-eligible Catherine Kilkenny Residence.

GHG and Efficiency verification gaps: Sections 5.3 and 5.5 differ from classic deferred mitigation because Staff recommends no project-specific COCs in those resource areas. Staff nevertheless relies on modeled net GHG displacement and general round-trip-efficiency assumptions. The Commission should explain whether those assumptions are material to the environmental conclusions and, if so, what enforceable operational verification exists.

NOISE-4: Staff expressly relies on this condition to find operational noise less than significant with mitigation. Yet the principal verification survey occurs after operation begins, at sustained output of 85% or greater of rated capacity. The key question is whether the condition's test protocol is designed to demonstrate compliance under the reasonably foreseeable worst operating condition rather than merely under a qualifying operating condition.

WATER-5: Staff's water analysis expressly relies on a later WQCP to address contaminated runoff from an emergency such as a battery fire. The WQCP is not due until 30 days before construction. The Commission should explain whether the condition establishes adequate pre-certification performance

standards for containment and groundwater protection, and whether the public had enough information to evaluate the effectiveness of the future plan.

V. Pattern Affecting Environmental Review and Public Participation

A related pattern concerns public participation. If material surveys, baseline studies, engineering designs, emergency plans, sampling protocols, performance criteria, or verification studies are first created after certification, the public cannot meaningfully review those materials while the environmental document is still under consideration. That can impair the review functions identified in CEQA Guidelines §§ 15200-15201: checking accuracy, detecting omissions, identifying public concerns, and proposing alternatives or countermeasures.

The issue is not simply that the Staff Assessment contains many future compliance submittals. Future construction drawings, names of personnel, reporting forms, and other ministerial implementation details are common. The more consequential pattern is where Staff appears to make a significance determination first and then leaves material factual investigation, mitigation design, performance standards, emergency-response systems, baseline data, or effectiveness criteria to be supplied after certification.

The Commission should address whether Staff applied CEQA Guidelines § 15126.4(a)(1)(B) consistently. For each COC that postpones substantive information, the record should identify: (1) why it was impractical or infeasible to develop the information during environmental review; (2) the specific performance standard adopted before approval; (3) the feasible actions identified in the environmental document that can achieve that standard; (4) the substantial evidence supporting Staff's conclusion that the future measure will actually reduce the impact as assumed; and (5) whether the public had a meaningful opportunity to review and comment on the information material to the significance finding.

VI. Questions the Commission Should Address in Responding to These Comments

Which less-than-significant or less-than-significant-with-mitigation findings depend on COCs whose substantive plans, surveys, baseline data, or performance criteria will not exist until after certification?

For each such COC, what specific finding did Staff make that it was impractical or infeasible to include the deferred detail during environmental review?

What specific, objective performance standard was adopted before certification for each deferred plan?

Where does the record identify the feasible actions that can achieve each performance standard, as contemplated by CEQA Guidelines § 15126.4(a)(1)(B)?

How did Staff determine the effectiveness of a future plan or survey before knowing its final contents or results?

Did Staff distinguish between permissible deferral of implementation details and impermissible deferral of the mitigation measure itself?

Why are baseline biological and contamination investigations, including Crotch's bumble bee protocol surveys and the Phase II ESA, not completed before the significance determination?

How can the public meaningfully evaluate fire, toxic-plume, evacuation, notification, responder-readiness, visual-screening and night-lighting mitigation when the project-specific plans are not yet available?

What QA/QC procedure required Staff section authors or technical reviewers to flag COCs that defer substantive mitigation or factual investigation?

Was there a cross-section review to identify where one section relied on a future COC drafted in another section to support a significance determination?

How did Staff evaluate whether deferral of these materials was consistent with CEQA Guidelines §§ 15200 and 15201 and the public's ability to check accuracy, detect omissions, identify concerns, and propose countermeasures?

Which post-certification plans, surveys, studies, designs, or performance standards will be reviewed only by the CPM or other agencies after the public CEQA review period has ended?

For each COC that postpones substantive information, was the deferred material information made available to the public before certification in another form? If not, how could the public test Staff's reliance on it?

For these reasons, I respectfully request that the Commission identify which significance conclusions rely on information that will not be developed until after certification; explain why that information could not reasonably be developed and disclosed during environmental review; identify the objective performance standards that presently govern each future plan or study; and explain how the public can evaluate the effectiveness of mitigation before the materials on which that mitigation depends are available. Where the missing information is material to determining the nature or magnitude of an impact, the issue should be resolved in the environmental review record rather than postponed to post-certification compliance.

VII. Authorities

Cal. Pub. Res. Code § 21002 (policy against approving projects as proposed where feasible alternatives or mitigation can substantially lessen significant environmental effects).

Cal. Pub. Res. Code § 21002.1 (purpose of EIR; duty to identify significant effects and indicate how they can be mitigated or avoided; duty to mitigate or avoid significant effects where feasible).

Cal. Pub. Res. Code § 21081.6 (mitigation monitoring/reporting; mitigation must be fully enforceable).

Cal. Code Regs., tit. 14, § 15126.4(a)(1)(B) (formulation of mitigation shall not be deferred; later details allowed only with commitment, specific performance standards, and identified feasible actions).

Cal. Code Regs., tit. 14, § 15126.4(a)(2) (mitigation measures must be fully enforceable).

Cal. Code Regs., tit. 14, § 15097 (mitigation monitoring/reporting).

California Energy Commission, Corby Battery Energy Storage System Project Staff Assessment, TN 271468 (July 15, 2026).

Communities for a Better Environment v. City of Richmond (2010) 184 Cal.App.4th 70, 92 (future mitigation cannot be used in a manner that undermines CEQA's full-disclosure and informed-decisionmaking functions).

Cal. Code Regs., tit. 14, §§ 15087, 15105 (notice and public-review period for a draft EIR).

Cal. Code Regs., tit. 14, § 15201 (public participation is an essential part of the CEQA process).

Cal. Code Regs., tit. 14, § 15200 (purposes of review include disclosure, accuracy checking, omission detection, discovery of public concerns, and solicitation of counterproposals).

Corrections and verification notes. (1) The Phase II Environmental Site Assessment is required by COC HAZ-11, not HAZ-9. HAZ-9 governs post-fire environmental sampling. (2) WATER-5 is due 30 days before construction, not 90 days. (3) WATER-3 is the groundwater production-well installation/permitting condition; it should not be described as a construction-dewatering COC. (4) NOISE-4 requires testing when sustained output first reaches 85% or greater of rated capacity; it does not cap testing at exactly 85%. (5) "GHG-1" and "EFF-1" are not actual Staff Assessment COC designations; the concern is the absence of project-specific operational verification COCs in those sections.