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VIA EMAIL

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**RE: REQUEST FOR INDEPENDENT INVESTIGATION AND EXECUTIVE REVIEW — CORBY
BATTERY ENERGY STORAGE SYSTEM PROJECT, DOCKET NO. 24-OPT-05**

Dear Chief Counsel Ranchod:

I am requesting an independent investigation and executive-level review of the preparation, technical review, quality-control process, treatment of contrary evidence, and alternatives analysis underlying the California Energy Commission's Staff Assessment/Draft Environmental Impact Report for the Corby Battery Energy Storage System Project, Docket No. 24-OPT-05.

This request is not based on a single disputed conclusion or generalized opposition to battery energy storage. The administrative record now documents a significant and recurring pattern across multiple independent technical disciplines: factual errors, mathematical errors, contradicted factual premises, incomplete or inadequate surveys, internal inconsistencies, unsupported assumptions, questionable methodological choices, failures to reconcile contrary evidence, selective treatment of the administrative record, deficiencies in the analysis of alternatives, and multiple instances in which Staff's own data or calculations appear to cross identified significance thresholds while the Staff Assessment nevertheless reaches a less-than-significant or compliance conclusion.

When examined collectively, these deficiencies repeatedly operate in the same direction. They minimize, obscure, or fail to fully disclose environmental consequences associated with the Applicant's selected agricultural and residentially adjacent Corby site, while diminishing, discounting, or failing to fully investigate evidence supporting Lambie Industrial Park as an environmentally preferable and potentially feasible alternative.

CEC expressly represented to the public that the Staff Assessment contains Staff's "independent, objective evaluation" of the proposed project. The record now provides substantial reason to examine whether the process that produced the Staff Assessment was consistent with that representation and with CEC's responsibilities as CEQA lead agency.

I. WHY AN INDEPENDENT INVESTIGATION IS WARRANTED

The concern has progressed beyond whether individual portions of a 1,402-page environmental document contain ordinary mistakes. Independent commenters examining different technical disciplines have identified deficiencies that converge on the same project-favorable result. Several are capable of objective verification. Others involve contrary field evidence, photographic documentation, survey adequacy, model interpretation, mathematical calculations, Staff's own internally inconsistent findings, or the failure to evaluate conditions that actually exist.

The legal and institutional concern is the pattern itself. Random error in a document of this size could reasonably be expected to operate in different directions. The record instead demonstrates a recurring directional pattern in which correction of the challenged premise or analysis increases recognition of environmental harm at Corby, weakens a finding of insignificance or assumed mitigation, strengthens the environmental advantages or potential feasibility of Lambie, or does some combination of these.

This request does not depend upon proving the subjective intent of any individual employee or consultant. The threshold question is whether the environmental review process actually produced the independent, objective, technically reliable analysis represented to the public. If the documented pattern resulted from inadequate quality control, excessive reliance on Applicant-generated information, insufficient independent verification, compartmentalized review, selective treatment of contrary evidence, predetermined analytical constraints, or some other systemic failure, that is itself a matter requiring investigation and correction.

II. PUBLIC SAFETY AND THE CONSEQUENCES OF AN UNRELIABLE ENVIRONMENTAL REVIEW

The Corby proposal is a 300-megawatt/1,200-megawatt-hour lithium-ion battery energy storage facility proposed on approximately 40.3 acres in Solano County, with associated substation and 230-kV gen-tie infrastructure. The project is being reviewed through the AB 205 opt-in process, under which CEC is the CEQA lead agency and its certificate can supersede many otherwise applicable state, local, and regional permits or requirements.

For residents already living and farming in the affected area, the accuracy of this review is not academic. The disputed analyses concern toxic-air dispersion, fire and emergency response, contaminated deposition and runoff, groundwater, agricultural soils and productivity, biological resources, noise, traffic, visual exposure, historic setting, cumulative BESS development, and the suitability of locating a large lithium-ion BESS in an existing agricultural and residential environment.

Where CEC is exercising extraordinary consolidated siting authority, the need for demonstrably independent, rigorous, and accurate environmental review is correspondingly important. A streamlined process cannot become a less exacting process.

III. THE ADMINISTRATIVE RECORD SHOWS A MULTIDISCIPLINARY PATTERN — NOT A SINGLE COMMENTER'S DISAGREEMENT

The evidentiary basis for this request is distributed throughout the public docket. The concern is not centered on any one commenter. The record includes technically substantive filings from residents, independent reviewers, professionals, public agencies, local government, and organizations. The significance lies in independent corroboration across disciplines. Recent filings are particularly important because they identify reproducible numerical discrepancies, threshold exceedances, agency infrastructure concerns, and methodological questions that can be tested against Staff's workpapers rather than resolved as matters of opinion.

- **Sarah Dunn:** identified a heavy-metal soil-deposition math error (TN 272480), groundwater-analysis deficiencies (TN 272372), environmental-justice deficiencies (TN 272477), and filed a detailed 23-page challenge to the Lambie alternatives analysis (TN 272509).
- **Nina Audino:** filed a 22-page analysis identifying prejudicial errors in Appendix LU with consequences for Hazardous Materials, Land Use, Public Health, and Soil and Water (TN 272524).
- **Derek Johnson:** filed Agriculture-related comments spanning Biological Resources, Land Use, Socioeconomics, and Soil and Water (TN 272490) and separately requested reevaluation of Lambie Industrial Park (TN 272309).
- **Jacqueline Ayer / Save Our Rural Town:** submitted a detailed technical Noise and Vibration critique (TN 272083) addressing thresholds, construction noise, pile driving, receptor impacts, and mitigation assumptions.
- **Majella Cullinan:** filed a specific challenge to the adequacy of Staff's feasibility analysis of alternatives (TN 272394).

- **Danielle Rupprecht:** submitted analysis directed to Lambie's electrical capability and interconnection assumptions, directly relevant to Staff's feasibility treatment.
- **Sherry Burke:** submitted a Scenic Vista analysis (TN 272363), adding an independent visual-resources critique.
- **Vacaville Firefighters Association / Matt Moreno:** submitted concerns addressing Hazardous Materials, Public Health, Worker Safety, and Fire Protection (TN 272310).
- **Solano Irrigation District:** submitted agency comments concerning project issues within its jurisdiction and infrastructure interests (TN 272340).
- **Solano County Water Agency:** the Water Agency's formal scoping comments placed CEC on notice that Gibson Canyon Creek is part of the Ulatis Flood Control Project; that the channel was designed for a 10-year recurrence storm; that project documents should consistently acknowledge that design standard; that overhead crossings could affect Water Agency heavy-equipment access; and that the Draft EIR should analyze pre- and post-project runoff for 10- and 100-year storms using current climate-adjusted rainfall data, demonstrate no increase in downstream peak flow, volume, or duration, and clearly identify drainage and detention-basin flow paths. These are not generalized public concerns but technical comments from the regional agency responsible for water supply and flood-control infrastructure.
- **California Department of Conservation and Solano County:** provided agency-level information and requests relevant to agricultural conversion, cumulative effects, land use, and alternatives that form part of the record against which Staff's treatment should be evaluated.
- **Keep Vacaville Safe:** filed a 28-page multi-resource critique addressing the adequacy of the proposed agricultural site analysis (TN 272493), followed on September 11 by a separate filing identifying what it describes as critical statutory deficiencies, unaddressed significance thresholds, and numerical discrepancies (TN 272534). The September 11 filing points to specific examples in which Staff's own reported values allegedly cross adopted or applicable thresholds while the document still reaches less-than-significant or LORS-compliance conclusions, including greenhouse-gas accounting, LESA scoring, construction noise, PM10, groundwater, biological mitigation, and local emergency-response capability. The live CEC docket also displays a separate Keep Vacaville Safe submission titled "Deficiencies on Frequency Analysis." At the time of this revision, that entry appears on the docket without a posted TN number. Because it directly challenges the Staff Assessment's fire/failure frequency methodology, it should be incorporated into the investigation once formally docketed and assigned a TN.
- **Jill Hendrix:** filed September 11 comments (TN 272563) challenging the Staff Assessment's treatment of Measure T and other local land-use protections, toxic-plume and thermal-runaway risk, contaminated firewater, evacuation constraints, local fire-service capability, and the adequacy of industrial-site alternatives.
- **Matthew Hendrix:** filed September 11 comments (TN 272562) identifying unresolved questions concerning liability and remediation funding, post-incident testing and re-entry standards, evacuation and animal safety, groundwater protection, worst-case plume modeling, cascading thermal runaway, and the failure to fully evaluate Lambie Industrial Park.
- **Danny Zambrano:** filed September 11 comments (TN 272561) relying on real-world BESS incidents, including Moss Landing and Otay Mesa, and questioning whether the Draft EIR's characterization of major fire risk as unlikely is supported by the complete incident record, appropriate plume analysis, lifecycle technology assumptions, and long-term failure risk.
- **Ralph Muehlenbruch:** filed September 11 comments (TN 272558) arguing that recent real-world BESS failure evidence should not be displaced by applicant-generated assumptions, that low probability is not equivalent to insignificant consequence, that Measure T and other locally adopted protections remain environmentally relevant under the AB 205 process, and that decommissioning, emergency costs, hospital evacuation, and cumulative BESS development require fuller analysis.
- **Robin Jaeckel:** filed an additional September 11 Noise and Vibration comment (TN 272556) challenging reliance on conventional dBA-based analysis without distinct evaluation of low-frequency vibration, pollinator effects, electromagnetic-field effects, microclimate alteration, and the agricultural baseline.

- **Michael Geller:** filed an extensive section-by-section technical review covering Project Description, Facility Design, Transmission Engineering, Fire Protection, Air Quality, Biological Resources, Cultural Resources, Geology, Hazardous Materials, Agriculture, Noise, Waste, Transportation, Visual Resources, Water Resources, Alternatives, cumulative impacts, Appendix D, and other sections (including TN 272416 through TN 272440). His Biological Resources comments included commissioned field investigation and photographic evidence disputing Staff's treatment of monarch butterfly and burrowing owl, as well as challenges concerning Swainson's hawk and Crotch's bumble bee survey adequacy.
- **Linda Geller:** submitted cross-cutting comments concerning Biological Resources, Visual Resources, Cultural and Tribal Cultural Resources, emergency-response capability, Measure T/AB 205, Lambie, cumulative development/Corby 2, Applicant reliance, administrative-record completeness, and the documented pattern of selective use of evidence and uneven treatment of the record (including TN 272168, 272349, 272414, 272458, 272461, 272486, 272505, and 272525).

Numerous additional public comments address public health, hazardous materials, land use, agricultural conversion, noise, transportation, transmission, biological resources, cultural resources, water, visual impacts, Measure T, and alternatives. Those comments should be evaluated on their evidentiary content rather than treated as a vote count.

- **Robin Jaeckel:** filed repeated section-specific comments addressing Land Use, Traffic and Transportation, Efficiency and Energy Resources, Socioeconomics, and Soil and Water. Her September 10 Soil and Water filing (TN 272443) identifies shallow-groundwater/dewatering concerns, potential effects on domestic and agricultural wells, contaminated firewater/runoff, stormwater-basin adequacy, and risks associated with the SID canal crossing. Her Efficiency filing (TN 272441) challenges Staff's less-than-significant conclusion based on round-trip efficiency losses, auxiliary cooling loads, battery augmentation/replacement, and transmission-system effects. Earlier filings also challenged land-use and transportation treatment.
- **Colleen Britton:** filed multiple comments that fit the documented-pattern criteria, including financial assurance and remediation liability (TN 272070), worst-case firewater containment and groundwater protection (TN 272069), claimed local net benefits (TN 272067), and a September 10 alternatives/emergency-planning filing (TN 272498) requesting a direct Corby-versus-Lambie evacuation comparison and identifying Staff's failure to fully investigate alternate PG&E tie-in possibilities.

IV. REPRESENTATIVE DEFECTS THAT WARRANT INVESTIGATION

The supporting documents are not limited to those referenced below:

Issue	Documented record concern	Supporting record	Investigation question
Biological Resources — monarch	Commissioned field investigation and photographs dispute the survey-derived treatment; actual monarch use, including mating on the Catherine Kilkenny Ranch, has been documented.	Michael Geller; Linda Geller biological filings	Whether Applicant/Staff survey conclusions were independently verified and whether contrary field evidence was fairly incorporated.
Biological Resources — burrowing owl	Field investigation and photographic evidence dispute Staff's treatment of burrowing owl.	Michael Geller; CEC scoping record	How conflicting field evidence was reconciled with Applicant-generated survey conclusions.
Biological Resources — Swainson's hawk	Special-status species concerns and agricultural foraging/nesting context were challenged in the record.	Michael Geller; CEC scoping record	Whether Staff adequately analyzed documented presence/use and agricultural habitat conversion.
Biological Resources — Crotch's bumble bee	Record raises whether a protocol-level survey appropriate to the significance determination was conducted before conclusions were reached.	Michael Geller; CEC scoping record; pollinator evidence	Why significance was determined without the level of species-specific survey later contemplated for preconstruction work.
Appendix LU	A 22-page filing identifies prejudicial errors affecting multiple resource areas.	Nina Audino, TN 272524	Independent technical verification of Appendix LU calculations, assumptions, and downstream conclusions.
Heavy-metal deposition	A mathematical error was specifically identified in the soil-deposition analysis.	Sarah Dunn, TN 272480	Whether the calculation was independently checked before publication and which conclusions

Issue	Documented record concern	Supporting record	Investigation question
			depend upon it.
Appendix D / 0.7% public-health characterization	Comment challenges translation of 301 exceedance meteorological hours out of 43,824 into an event-level probability characterization for a multi-hour off-gassing event.	Michael Geller, TN 272416	Whether the probability statement is methodologically supported and whether it improperly minimizes modeled risk.
Groundwater / firewater / runoff	Comments identify unresolved pathways involving contaminated water, deposition, agricultural land, SID facilities, and groundwater.	Sarah Dunn; Michael Geller; Linda Geller; SID	Whether Staff traced realistic incident pathways and verified containment/emergency assumptions.
Noise and Vibration	Technical comments challenge applicable thresholds, pile-driving assumptions, receptor levels, and mitigation.	Jacqueline Ayer/SORT, TN 272083; Michael Geller	Whether Staff used correct thresholds and adequately modeled the loudest construction activities.
Visual Resources	Screening analysis relies on deciduous orchard/landscaping without adequate leaf-off analysis; no wall exists on the WEST side; above-ground gen-tie remains visible.	Linda Geller; Michael Geller; Sherry Burke	Whether simulations and mitigation assumptions materially overstate year-round screening.
Cultural Resources	Staff recognizes historic agricultural associations and further degradation of the Catherine Kilkenny Residence setting, yet significance treatment is challenged; subjective 'Disneyesque' language also appears in Staff's discussion.	Linda Geller; Michael Geller	Whether cultural-resource conclusions were reached through objective application of the evidence and eligibility/integrity criteria.
Agriculture / Important Farmland	Staff recognizes substantial Important Farmland conversion; commenters challenge acreage/scoring/context/mitigation and cumulative agricultural loss.	Derek Johnson; Nina Audino; Michael Geller; Linda Geller; DOC; Solano County	Whether Staff fully accounted for conversion and surrounding agricultural context rather than treating the site as an isolated parcel.
Emergency response	Comments question actual local staffing, apparatus, HAZMAT, respiratory protection, BESS training, water, evacuation, plume monitoring, re-entry, and contaminated-runoff capability.	Vacaville Firefighters Association; Linda Geller; Michael Geller	Whether Staff relied on plans/standards without establishing real-world local response capability.
Cumulative impacts / Corby 2	Record evidence identifies additional Corby-related development; Staff itself identified a Corby 2 project in Alternatives but its treatment across cumulative resource analyses is challenged.	Linda Geller, TN 272525; Michael Geller cumulative comments	Whether reasonably foreseeable related development was consistently carried through cumulative analyses.
Lambie Industrial Park	Multiple commenters challenge Staff's assumed interconnection configuration, feasibility analysis, treatment of industrial zoning, sensitive receptors, Important Farmland avoidance, and prior notice of the alternative.	Sarah Dunn; Derek Johnson; Danielle Rupprecht; Majella Cullinan; Michael Geller; Linda Geller; Solano County	Whether Applicant-created commercial/site/interconnection constraints were allowed to substitute for an independent CEQA alternatives analysis.
Project-wide quality control	Independent reviewers across unrelated disciplines identified objective errors, disputed premises, missing analyses, and internal inconsistencies after publication.	Multiple independent commenters/agencies	What QA/QC process was used, what was independently checked, and why these issues were not identified before the Draft EIR was published.
Measure T / AB 205 / voter-enacted agricultural protections	CEC was repeatedly placed on notice that Measure T is a voter-enacted agricultural-protection framework, yet commenters challenge whether Staff meaningfully analyzed its legal and environmental significance rather than treating asserted AB 205 supersession as dispositive.	Wendy Breckon TN 272280 and earlier scoping comments; Neil Serr TN 272179 and earlier filings; Victoria Serr TN 272180; Linda Geller TN 272415/TN 272458; additional land-use comments.	When did Staff reach its Measure T/AB 205 legal conclusion, who participated, what authority was considered, and did that conclusion narrow or bias Land Use, Agriculture, Alternatives, cumulative-impact, or consistency analysis?
Soil and Water — shallow groundwater / wells / SID canal	Comments identify shallow groundwater, dewatering, neighboring well impacts, contaminated firewater and stormwater, basin adequacy, and	Robin Jaeckel TN 272443; Sarah Dunn TN 272372; Colleen Britton TN 272069; Michael Geller water	Whether Staff's less-than-significant conclusions adequately address real site hydrology, agricultural wells, worst-case

Issue	Documented record concern	Supporting record	Investigation question
	risks from the SID canal crossing.	comments; SID TN 272340.	runoff, and canal infrastructure.
Efficiency and lifecycle energy analysis	Comment challenges Staff's less-than-significant efficiency conclusion for failing to quantify round-trip losses, auxiliary thermal-management load, repeated battery augmentation/replacement, and transmission-system inefficiencies.	Robin Jaeckel TN 272441; related transmission/project-description record.	Whether Staff applied an unduly narrow efficiency analysis that omitted material project lifecycle and auxiliary-energy demands.
Financial assurance / remediation / community liability	Comment identifies absence or inadequacy of binding financial assurance for off-site contamination, groundwater remediation, emergency-response costs, evacuation, property loss, and post-closure monitoring.	Colleen Britton TN 272070; Michael Geller TN 272120; related decommissioning and emergency-response comments.	Whether Staff adequately analyzed who bears the financial consequences of a major incident, long-term contamination, or project-entity insolvency.
Emergency evacuation and Corby-versus-Lambie comparison	Comment requests mapped comparison of populations and sensitive receptors within a worst-case evacuation area and the emergency resources required at Corby versus Lambie.	Colleen Britton TN 272498; Linda Geller TN 272461; Vacaville Firefighters Association TN 272310.	Whether Staff's alternatives and emergency-response analyses meaningfully compare the human consequences and operational complexity of the two locations.
Alternative PG&E tie-ins / Lambie interconnection	Comment states alternate tie-in possibilities were not fully investigated and calls for feasibility/cost comparison rather than assuming one Applicant-preferred interconnection path.	Colleen Britton TN 272498; Sarah Dunn TN 272509; Danielle Rupprecht; Michael Geller TN 272421; Linda Geller TN 272168.	Whether Staff independently investigated reasonable interconnection configurations before treating Lambie as comparatively disadvantageous.
Significance thresholds / September 11 KVS filing	TN 272534 identifies multiple instances where Staff's reported values allegedly cross adopted or applicable thresholds while the Staff Assessment still reaches less-than-significant or LORS-compliance conclusions, including GHG, LESA, noise, PM10, groundwater, biological mitigation, and fire-service issues.	Keep Vacaville Safe, TN 272534	Whether each calculation and threshold application is reproducible, consistently applied, and supported by disclosed methodology rather than segmentation, netting, reclassification, or other result-changing assumptions.
Fire-frequency analysis / incident dataset	The record raises a specific concern that documented BESS fires were omitted, selectively classified, or excluded in a manner that reduced the apparent frequency of fire or thermal-runaway events and downplayed lifecycle risk.	Fire-frequency comments; Staff fire-safety analysis; underlying incident databases and Applicant/Staff workpapers	Which incidents were included or excluded, why, what denominator and units were used, and how inclusion of omitted documented incidents changes the reported frequency and 30-year Corby risk characterization.
Measure T omission from Draft EIR	Despite the project's conversion of agricultural land and the voter-enacted purpose of Measure T, the Staff Assessment/Draft EIR does not appear to identify or discuss Measure T by name.	Staff Assessment TN 271468; Measure T docket filings including TN 272280, 272179, 272180, 272415, 272458	Why Measure T was omitted from the express environmental analysis, when Staff formed its AB 205/preemption position, and whether that legal premise narrowed Land Use, Agriculture, Alternatives, cumulative-impact, or consistency review.
Solano County Water Agency / hydrology and flood-control infrastructure	The regional Water Agency identified Gibson Canyon Creek as part of the Ulatis Flood Control Project, noted its 10-year design recurrence, requested climate-adjusted 10- and 100-year runoff analysis with no increase in downstream peak flow/volume/duration, and raised heavy-equipment access concerns at overhead crossings.	Solano County Water Agency scoping comments, TN 267678; related Soil and Water record	Whether Staff incorporated the responsible water/flood-control agency's technical baseline and independently verified Applicant runoff, detention, drainage, crossing, and access assumptions before reaching significance conclusions.

IV.A. SEPTEMBER 11 DOCKET DEVELOPMENTS STRENGTHEN THE NEED FOR INDEPENDENT REVIEW

The September 11 docket filings materially strengthen the investigation request because they do not merely repeat generalized opposition. They identify additional, testable questions about how Staff applied significance thresholds, selected datasets, characterized uncertainty, and converted technical inputs into conclusions favorable to the proposed site.

Most notably, Keep Vacaville Safe's TN 272534 identifies several instances in which the Staff Assessment's own reported data allegedly exceed an adopted or applicable threshold, yet the ultimate conclusion remains less than significant or compliant. The issue for an investigation is not whether every commenter is ultimately correct. It is whether Staff used a consistent, disclosed methodology before publication, whether the same threshold rules were applied in both directions, and whether any analytical step was selected, segmented, netted, reclassified, or otherwise framed in a way that had the practical effect of avoiding a significance finding.

That concern is particularly important because several examples are capable of objective reproduction: the 900 MTCO₂e/year greenhouse-gas threshold versus reported gross indirect emissions; the LESA gate allegedly affected by separate treatment of the transmission corridor; the reported construction-noise level at Rec02 after application of NOISE-6; and peak PM₁₀ grading emissions relative to the YSAQMD threshold. An independent reviewer should reproduce each calculation from the underlying workpapers and identify every discretionary methodological choice that changes whether a threshold is crossed.

The same concern now extends to the fire-frequency analysis. The record raises a specific allegation that documented utility-scale BESS fires were omitted from the incident dataset or otherwise excluded from the numerator while deployment statistics and other denominator assumptions were used to characterize fire occurrence as increasingly rare. If documented incidents were omitted, selectively classified, or excluded without a transparent and technically defensible rule, the resulting frequency characterization could materially understate the likelihood of a fire or thermal-runaway event over the proposed 30-year operating life. The investigation should therefore reconstruct the fire-frequency analysis from the raw incident list forward: identify every known incident considered, every incident excluded, the reason for each exclusion, the capacity denominator and units used, the geographic and technology filters applied, the time period selected, and the conversion from an industry-wide incident rate to the risk characterization presented for Corby.

This should include an explicit sensitivity analysis using the complete documented incident record and alternative reasonable denominators. The inquiry should determine whether Staff distinguished between 'failure,' 'fire,' 'thermal runaway,' 'explosion,' and other event categories in a way that reduced the apparent frequency; whether indoor and outdoor systems, chemistry, age, design generation, or geography were excluded consistently; whether recent California events were fully incorporated; and whether the Staff Assessment disclosed the uncertainty created by rapidly changing deployment and incident-reporting practices.

These issues should be investigated as quality-control and methodological questions. The existing record is sufficient to raise concern that some significance thresholds and probability characterizations may have been applied in a result-oriented manner. The investigation should determine whether that appearance reflects defensible technical judgment, error, inconsistent methodology, selective use of evidence, or some other cause. It should not presume intent without evidence.

IV.B. WATER-AGENCY NOTICE AND UNRESOLVED HYDROLOGY / FLOOD-CONTROL QUESTIONS

The Solano County Water Agency's involvement warrants separate investigative attention because it is the regional agency that maintains the Ulatis Flood Control Project and has responsibility for water-supply and drainage infrastructure potentially affected by the Corby project. Its scoping comments identified Gibson Canyon Creek as part of the UFCP and stated that the channel was designed and constructed to control a storm with a 10-year recurrence level.

The Water Agency specifically requested a hydrology assessment addressing pre- and post-project runoff for both 10- and 100-year storms using current climate-adjusted rainfall data, with demonstration of no increase in downstream peak flows, volume, or duration and clear identification of site-drainage and detention-basin outlet flow paths. It also raised access and safety concerns where project overhead crossings intersect areas used by Water Agency heavy equipment.

For purposes of this investigation, the question is not simply whether Staff responded somewhere in the environmental document. The question is whether the final analytical framework actually incorporated the Water Agency's technical baseline and infrastructure constraints; whether Staff independently verified Applicant hydrology and detention assumptions against those agency concerns; and whether any less-

than-significant Soil and Water conclusion depends upon assumptions that the responsible regional water/flood-control agency had specifically asked CEC to substantiate.

This agency evidence reinforces the broader pattern already identified by other commenters concerning shallow groundwater, dewatering, neighboring agricultural and domestic wells, firewater containment, stormwater-basin adequacy, canal and drainage infrastructure, and contaminated runoff. An independent review should determine whether those related issues were evaluated as an integrated site-specific water-risk problem or fragmented among separate sections in a manner that obscured their combined significance.

V. THE LAMBIE ALTERNATIVE REQUIRES PARTICULAR SCRUTINY

The pattern is especially significant in the alternatives analysis. Lambie Industrial Park was not first suggested after publication of the Staff Assessment. It had been raised in the CEC record well before July 2026. Multiple subsequent commenters have addressed Lambie's feasibility, electrical/interconnection capability, industrial land-use context, avoidance of Important Farmland at the BESS footprint, and reduced proximity to sensitive residential receptors.

The investigation should determine whether Staff independently evaluated reasonable Lambie configurations or instead measured Lambie against commercial constraints created by the Applicant's preselected Corby parcel, existing contracts, preferred interconnection strategy, schedule, and project configuration. Applicant-created constraints should not silently become environmental facts that predetermine the outcome of the alternatives comparison.

This question is sharpened by chronology. The homes, farms, agricultural operations, historic resources, and rural setting surrounding the proposed Corby site existed well before the Applicant acquired or committed to the project location. The environmental baseline is the environment into which the project arrived; it is not the Applicant's subsequently selected commercial configuration.

VI. MEASURE T IS A MAJOR PART OF THE DOCUMENTED PATTERN AND REQUIRES INVESTIGATION

The investigation request would be incomplete without addressing Staff's treatment of Solano County Measure T. Measure T is not merely underanalyzed in the Staff Assessment/Draft EIR: despite its direct relevance to the conversion and redesignation of agricultural land, the 1,402-page Staff Assessment does not appear to identify or discuss Measure T by name. That omission is especially significant because Measure T is the voter-approved land-use framework that extended Solano County's orderly-growth protections and restricts redesignation and industrialization of agricultural and open-space lands through December 31, 2028.

An investigation should determine how a voter-enacted agricultural protection of this importance could be absent from the Draft EIR's express discussion even though the project would convert protected agricultural land to an industrial energy use and even though the CEC had been placed on notice of the issue during the proceeding. The absence matters independently of the Commission's ultimate legal view of AB 205 preemption: an agency may believe it has authority to supersede a local restriction while still being required to disclose and analyze the environmental and land-use conflict that the restriction embodies.

The Corby docket demonstrates that CEC was repeatedly placed on notice of Measure T before and after publication of the Staff Assessment. Wendy Breckon expressly raised Measure T and agricultural-land redesignation in the scoping record and later filed a six-page September 1 comment, TN 272280, devoted to the voter initiative. Neil Serr and Victoria Serr separately filed comments, TN 272179 and TN 272180, asking why CEC was not giving Measure T the weight it deserved. Linda Geller filed detailed Measure T/AB 205 comments, including TN 272415 and the later revised TN 272458. Earlier comments also asked CEC to honor local ordinances, Measure T, and the policy of directing industrial development away from protected agricultural land.

This history is relevant to the investigation for reasons extending beyond the ultimate legal question of AB 205 preemption. Even if CEC asserts authority under Public Resources Code section 25545.1 to supersede conflicting local requirements, the existence, purpose, voter-enacted character, and

environmental policy embodied in Measure T remain material to understanding the land-use conflict, the agricultural baseline, the significance of converting this site to industrial use, and the comparative suitability of an industrial alternative such as Lambie.

The investigative question is therefore not limited to whether CEC believes AB 205 gives it legal authority to approve Corby notwithstanding Measure T. The investigation should determine whether Staff began with that asserted preemption conclusion and, as a result, failed to independently analyze the environmental and land-use significance of overriding a voter-enacted agricultural-protection measure; whether Measure T was treated differently from ordinary land-use policies without adequate explanation; whether its environmental purposes were meaningfully incorporated into the Land Use, Agriculture, Alternatives, cumulative-impact, and project-consistency analyses; and whether Staff's treatment of Measure T contributed to the same one-directional pattern documented elsewhere.

Measure T also bears directly on Lambie. The contrast is not simply agricultural versus industrial zoning. The proposed Corby site lies within a landscape subject to voter-enacted agricultural protections, while Lambie is an established industrial location. A meaningful alternatives analysis should disclose that distinction rather than allow the Applicant's preselected parcel, interconnection strategy, or commercial commitments to overshadow it.

The Measure T record should therefore be included within the requested independent review of Staff's legal assumptions, analytical framework, treatment of contrary evidence, and alternatives analysis. The investigation should separately identify what Staff understood Measure T to require, when Staff reached its legal conclusion concerning AB 205, who participated in that conclusion, what legal and factual materials were considered, and how that conclusion affected the scope and substance of the Draft EIR.

VI.A. APPARENT INCONSISTENCY IN BIOLOGICAL-RESOURCES REVIEW — CORBY AND VACA DIXON

An additional issue warrants independent review concerning the consistency and quality control of CEC's Biological Resources review. CEC itself initially determined that Corby's biological submission lacked required information concerning field studies, specialized surveys, and other biological-resource matters. Yet Corby ultimately proceeded to a Staff Assessment without the publicly apparent suite of discrete protocol-level studies subsequently submitted for the nearby Vaca Dixon Power Center (26-OPT-01), including dedicated Crotch's bumble bee, burrowing owl, botanical, and federally listed branchiopod studies.

The difference is particularly noteworthy because these are nearby BESS projects proceeding through the same CEC Opt-In program, with **the same Project Manager and Biological Resources Technical Senior identified in CEC's review structure**. Different sites may legitimately require different surveys. The investigative question is whether a contemporaneous, scientifically supported basis exists for the materially different levels of biological investigation and, if so, where that determination is documented.

The question is heightened by subsequent Corby field evidence. Commissioned field investigation and photographs submitted by the Gellers challenged important aspects of the biological record and Staff's treatment of species including monarch butterfly and burrowing owl, while other comments challenged the adequacy of the Swainson's hawk and Crotch's bumble bee analyses. The current investigation request already documents that contrary field evidence. *If site-specific observations, photographs, and independent field investigation were able to identify material biological evidence not adequately captured or addressed by the surveys CEC reviewed, that raises a legitimate QA/QC question concerning survey timing, coverage, methodology, access limitations, and independent verification.*

The independent review should therefore determine

- (1) why materially different levels of protocol/specialized biological investigation were accepted for Corby and Vaca Dixon;
- (2) whether those differences were supported by documented site-specific scientific reasons;
- (3) what Corby field findings CEC independently verified rather than merely reviewing Applicant-generated information;

- (4) how Staff reconciled its initial determination that Corby's biological information was incomplete with its later significance conclusions; and
- (5) whether the subsequent contrary field evidence reveals limitations that could materially affect those conclusions.

VII. SPECIFIC SCOPE OF THE REQUESTED INVESTIGATION

The scope of the requested investigation should not be limited to the matters identified below.

following issues are intended to identify significant areas presently supported by the administrative record, not to restrict the investigation or exclude other errors, omissions, methodological concerns, inconsistencies, communications, systemic issues, or evidence that may be identified during an independent review. The investigation should follow the evidence wherever it leads and should include any additional matters reasonably necessary to determine whether the Staff Assessment was prepared, reviewed, and quality-controlled through an independent, objective, technically rigorous, and reliable process.

At a minimum, the investigation should include the following:

- Identify the quality-assurance and quality-control procedures applied to the Staff Assessment before publication, including who performed technical review of each major section and whether calculations were independently checked.
- Identify the extent to which Staff and its consultants relied on Applicant-generated surveys, modeling, calculations, data responses, project descriptions, assumptions, and expert conclusions.
- Determine which Applicant-generated materials were independently verified, by whom, using what method, and where that verification is documented.
- Examine whether contrary evidence already in the administrative record was identified, fairly characterized, and incorporated before Staff reached significance determinations.
- Examine the treatment of post-publication field evidence, photographs, mathematical corrections, agency comments, and technical critiques, and whether any underlying Staff conclusions require reconsideration.
- Review the biological-resource survey methodology and reconciliation of contrary evidence for monarch butterfly, burrowing owl, Swainson's hawk, Crotch's bumble bee, and other special-status species.
- Review Appendix LU and Appendix D calculations, units, probability/frequency methodology, deposition results, receptor analysis, and all downstream significance conclusions affected by any correction.
- Review Staff's treatment of dormant-season visual conditions, the WEST-side absence of a wall, above-ground gen-tie infrastructure, and the relationship between visual impacts and the historic setting of the Catherine Kilkenny Residence.
- Review Staff's treatment of agricultural conversion, LESA, mitigation, cumulative agricultural effects, and Department of Conservation/Solano County evidence.
- Review whether emergency-response and fire-protection conclusions are supported by demonstrated local capability rather than general plans, standards, or assumptions.
- Review the cumulative-impact treatment of Corby 2 and other reasonably foreseeable BESS development.
- Review the complete chronology and substance of Lambie Industrial Park comments and determine whether Staff independently investigated reasonable electrical/interconnection configurations and feasibility.
- Determine whether Applicant-created commercial commitments, property acquisition, interconnection preferences, schedule, sunk costs, or contractual arrangements were treated as fixed constraints in a manner that distorted the CEQA alternatives analysis and other analysis.
- Evaluate the directionality of verified errors and corrections: identify whether each materially increases or decreases Corby's environmental impacts, strengthens or weakens mitigation, and strengthens or weakens Lambie's comparative environmental advantage.

- Determine whether the cumulative pattern is consistent with CEC's public representation that the Staff Assessment was an independent and objective evaluation.
- Review Staff's treatment of Solano County Measure T, including its voter-enacted status, agricultural-protection purposes, relationship to the General Plan, the timing and basis of Staff's AB 205/preemption analysis, and the effect of that legal premise on Land Use, Agriculture, Alternatives, cumulative-impact, and consistency analyses.
- Review Robin Jaeckel's section-specific filings concerning shallow groundwater/dewatering, agricultural and domestic wells, SID canal risks, efficiency/auxiliary loads, land use, transportation, and socioeconomic impacts, and determine whether the Staff Assessment adequately addressed the factual issues she identified.
- Review Colleen Britton's filings concerning worst-case firewater containment, financial assurance/remediation liability, claimed local net benefits, evacuation planning, and alternate PG&E tie-in configurations, including whether those issues expose omissions or one-sided assumptions in Staff's analysis.
- Review the rationale for not including analysis of the Project's impacts on nearby residences, including potential effects on property value, marketability, homeowners insurance and insurability, and the use and enjoyment of neighboring property.
- Independently reproduce each September 11 threshold calculation identified in Keep Vacaville Safe TN 272534, including the greenhouse-gas, LESA, construction-noise, PM10, groundwater, biological-mitigation, and fire-service analyses, and identify every methodological choice that changes whether an adopted or applicable threshold is exceeded.
- Audit the fire-frequency analysis from raw incident data through the final risk characterization. Identify every documented BESS fire, thermal-runaway event, explosion, or other failure considered; every event excluded; the inclusion/exclusion rule; the denominator and units used; and the effect of omitted incidents on the calculated frequency and 30-year project risk.
- Determine whether significance thresholds, probability measures, segmentation choices, netting assumptions, or compliance criteria were applied consistently across resource areas, or whether any method had the effect of moving a result below a threshold without a clearly disclosed and technically supported basis.
- Determine why Measure T was not expressly identified and analyzed in the Staff Assessment/Draft EIR despite its voter-enacted agricultural-protection purpose, the project's direct conflict with agricultural land protections, and the Commission's notice of the issue during the proceeding.
- Review the September 11 filings of Keep Vacaville Safe (TN 272534), Jill Hendrix (TN 272563), Matthew Hendrix (TN 272562), Danny Zambrano (TN 272561), Ralph Muehlenbruch (TN 272558), and Robin Jaeckel (TN 272556) for additional independently verifiable errors, omissions, threshold exceedances, and methodological inconsistencies.
- Review the Solano County Water Agency's technical comments and determine whether Staff's hydrology, drainage, detention-basin, flood-control, crossing, and access analyses fully incorporated the Water Agency's identified 10-year channel design standard and requested climate-adjusted 10- and 100-year runoff analysis.
- Determine whether Soil and Water issues were improperly compartmentalized. Specifically examine the combined relationship among shallow groundwater, dewatering, neighboring wells, stormwater detention, contaminated firewater, flood-control channels, SID/Water Agency infrastructure, and downstream agricultural land.
- Treat the recent Keep Vacaville Safe threshold filing as evidence relevant to the investigation itself: independently reproduce the cited GHG, LESA, noise, PM10, groundwater, biological, and emergency-response analyses from Staff's underlying data and workpapers, and determine why apparent threshold crossings or unresolved data gaps did not produce corresponding significance findings.

- Compare the biological-resource review of Corby (24-OPT-05) and Vaca Dixon (26-OPT-01), including the protocol and specialized surveys required or accepted for each, and determine whether the materially different levels of biological investigation are supported by documented site-specific scientific reasons, particularly given the overlapping CEC project-management and senior biological-review structure.

VII.A. CONTINUING AND SUPPLEMENTAL INFORMATION

This Request for Independent Investigation and Executive Review is based on the administrative record and information presently available. It may be amended or supplemented as additional information, technical analysis, agency records, public comments, underlying data, or other relevant evidence becomes available or is further analyzed. Nothing in this Request should be construed as limiting the issues that may warrant investigation to those presently identified, or as waiving concerns that become apparent through continued review of the Staff Assessment, its supporting materials, the administrative record, or the investigation itself.

VIII. REQUEST FOR STRUCTURAL INDEPENDENCE

Because this request concerns the adequacy and independence of the Staff Assessment process itself, I respectfully request that the review not be assigned solely to the same project team, consultants, supervisors, or attorneys whose work or advice is part of the process being examined.

CEC maintains an Office of Audits, Investigations, and Program Reviews. I therefore request that Chief Counsel, the Executive Director, and the Director of Audits, Investigations, and Program Reviews determine the appropriate structure for an independent review, with sufficient separation from the project team to provide confidence in the result.

I also request that the Commission preserve all records relevant to preparation and review of the Staff Assessment, including drafts, technical-review comments, calculation workpapers, consultant communications, Applicant/Staff communications, internal comments concerning Lambie and other alternatives, QA/QC records, survey review materials, and records concerning the treatment of public-agency and public evidence. This is a preservation request, not an accusation concerning any particular communication.

IX. REQUESTED RESPONSE AND INTERIM ACTION

Please confirm in writing whether CEC will undertake an independent investigation or executive review, who will conduct it, its scope, and whether its findings will be documented. If CEC concludes that another office or procedure is the appropriate mechanism, please identify that mechanism and forward this request accordingly rather than treating it solely as another project comment.

I also request that the significant pattern documented in the docket be evaluated before CEC relies upon the challenged Draft EIR findings in a Final Staff Assessment/Final EIR or certification decision. If correction of the underlying record materially changes an impact determination, mitigation measure, cumulative analysis, or alternatives comparison, that change should be disclosed and addressed through the process required by CEQA.

Nothing in this request asks CEC to prejudge the project. **It asks CEC to determine whether the environmental review itself has been sufficiently independent, accurate, complete, and even-handed to support the decision CEC will ultimately make.**

X. CONCLUSION

The public record now contains far more than generalized concern about a controversial project. It contains a substantial, multidisciplinary evidentiary record documenting a significant pattern of flawed analysis and one-directional treatment of environmental information.

The appropriate institutional response is not to fragment that record into dozens of isolated comments and answer each without addressing the pattern they collectively establish. The pattern itself requires examination.

The stakes are substantial. CEC is considering whether to authorize a 300-MW/1,200-MWh lithium-ion BESS in an existing agricultural and residential environment through a statutory process that gives the Commission unusually broad siting authority. Residents should be able to rely on the proposition that such authority will be exercised only after genuinely independent, technically rigorous, and objective environmental review.

I respectfully request that Chief Counsel, executive leadership, the Commission, and the Office of Audits, Investigations, and Program Reviews take the documented pattern seriously and initiate an appropriately independent investigation or review.

Sincerely,

Linda Geller

Linda Geller

Selected Record References

- Corby Battery Energy Storage System Project, Docket No. 24-OPT-05; Staff Assessment TN 271468 (July 15, 2026), 1,402 pages.
- CEC September 1, 2026 Staff Assessment public-meeting page: Staff Assessment described as CEC Staff's "independent, objective evaluation" of the proposed project.
- Linda Geller: including TN 272168, 272349, 272414, 272458, 272461, 272486, 272505, 272525.
- Michael Geller: including TN 272416 through TN 272440 and related earlier filings.
- Nina Audino: TN 272524.
- Sarah Dunn: TN 272372, 272477, 272480, 272509.
- Derek Johnson: TN 272309, 272490.
- Save Our Rural Town / Jacqueline Ayer: TN 272083.
- Sherry Burke: TN 272363.
- Majella Cullinan: TN 272394.
- Vacaville Firefighters Association / Matt Moreno: TN 272310.
- Solano Irrigation District: TN 272340.
- Solano County Water Agency: TN 267678 (formal scoping comments regarding Gibson Canyon Creek/Ulatis Flood Control Project, hydrology, runoff, drainage, crossings, and agency access).
- Keep Vacaville Safe: TN 272493.
- Keep Vacaville Safe: TN 272534 (September 11, 2026 — Critical Statutory Deficiencies, Unaddressed Significance Thresholds, and Numerical Discrepancies).
- Jill Hendrix: TN 272563; Matthew Hendrix: TN 272562; Danny Zambrano: TN 272561; Ralph Muehlenbruch: TN 272558; Robin Jaeckel: TN 272556 (all docketed September 11, 2026).
- Keep Vacaville Safe: separate September 11 docket entry titled "Deficiencies on Frequency Analysis" (TN not yet shown on the live docket at time of revision).
- Additional agency and public comments in the 24-OPT-05 docket should be incorporated into the investigation according to their evidentiary content.
- Wendy Breckon: TN 272280 (Measure T voter initiative prohibits redesignation of agricultural land), plus earlier Measure T/scoping comments.
- Neil Serr: TN 272179 (Measure T) and related Lambie/local-land-use filings; Victoria Serr: TN 272180 (Measure T).

- Robin Jaeckel: TN 272441 (Efficiency), TN 272442 (Socioeconomics), TN 272443 (Soil and Water), TN 272204 and earlier Land Use/Transportation filings.
- Colleen Britton: TN 272067 (local net-benefit claim), TN 272069 (worst-case water containment), TN 272070 (financial assurance/remediation), TN 272348 and TN 272498 (additional questions/Alternatives).