DOCKETED	
Docket Number:	24-OPT-04
Project Title:	Potentia-Viridi Battery Energy Storage System
TN #:	261398
Document Title:	CEC Data Request Response No 2 for the Potentia-Viridi Energy Storage Project
Description:	This document provides responses to the CEC's September 6, 2024 data request for the following resource areas: Mandatory Opt-In Requirements, Air Quality, GHG, Executive Summary, Hazardous Materials, Land Use, Noise, Project Description, Public Health, Socioeconomics, Visual Resources, Wildfire, Water Resources, and Worker Safety
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Submission Date:	1/29/2025 6:59:40 AM
Docketed Date:	1/29/2025

CEC Data Request Response No.2

Potentia–Viridi Battery Energy Storage System Project

JANUARY 2025

Prepared for:

CALIFORNIA ENERGY COMMISSION

Prepared by:

LEVY ALAMEDA LLC

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TABLES

ATTACHMENTS

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Acronyms and Abbreviations

Acronym	Definition
BESS	battery energy storage system
CalEEMod	California Emissions Estimator Model
CARB	California Air Resources Board
CEC	California Energy Commission
CFC	California Fire Code
CGP	Construction General Permit
CH_4	methane
CO_2	carbon dioxide
DPM	diesel particulate matter
FTE	full-time equivalent
GHG	greenhouse gases
HARP2	Hotspots Analysis and Reporting Program Version 2
ITC	Investment Tax Credit
KOP	Key Observation Point
MEIR	maximally exposed individual resident
MEIW	maximally exposed individual worker
MERR	maximally exposed recreational receptor
MM	Mitigation Measure
N_2O	nitrous oxide
OEHHA	Office of Environmental Health Hazard Assessment
OTWS	Onsite Wastewater Treatment Systems
OWCU	Onsite Wastewater Containment Unit
PRC	California Public Resources Code
QSD	Qualified SWPPP Developer
RTE	round-trip efficiency
SMARTS	Stormwater Multiple Application and Report Tracking System
SWPPP	Stormwater Pollution Prevention Plan

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1 Introduction

On September 6, 2024, Levy Alameda LLC and Affiliates (Applicant) received a Determination of Incomplete Application and Request for Information from the California Energy Commission (CEC) for the Potentia-Viridi Battery Energy Storage System Project (Project; Docket Number 24-OPT-04) in response to the Applicant's application filed on August 7, 2024. Table 1 lists the data requests responded to in Response No. 1.

Table 1. Data Responses Previously Provided

Data Request Resources Area	Data Request Number
Alternatives	DR ALT-1
Cultural and Tribal Resources	DR CUL/TRI-1 through DR CUL/TRI-12
Geological Resources	DR GEO-1 through DR GEO-2
Paleontological Resources	DR PALEO-1
Traffic and Transportation	DR TRANS-1 through DR TRANS-4
Transmission System Design	DR TSD-1 through DR TSD-6
Transmission System Safety and Nuisance	DR TSSN-1 through DR TSSN-5
Waste Management	DR WASTE-1 through DR WASTE-2

Table 2 lists the data requests responded to in Response No. 2. The responses provided below are grouped by individual discipline or topic area and are presented in the same order and with the same numbering provided by the CEC.

Table 2. Data Responses Provided in Response No. 2

Data Request Resources Area	Data Request Number
Mandatory Opt-in Requirements	DR MAND-1 through DR MAND-6
Air Quality	DR AQ-1 through DR AQ-13
Greenhouse Gas Emissions (Climate Change)	DR GHG-1 through DR GHG-8
Executive Summary	DR ES-1 through DR ES-3
Hazardous Materials Handling	DR HAZ-1 through DR HAZ-7
Land Use	DR LAND-1 through DR LAND-7
Noise	DR NOISE-1 through DR NOISE-2
Project Description	DR PD-1 through DR PD-4
Public Health	DR PH-1 through DR PH-10
Socioeconomics	DR SOCIO-1 through DR SOCIO-4
Visual Resources	DR VIS-1 through DR VIS-14
Wildfire	DR FIRE-1 through DR FIRE-2
Water Resources	DR WATER-1 through DR WATER-8
Worker Safety	DR WS-1 through DR WS-5

Table 3 provides a list of all remaining data requests received from the CEC that have not been addressed in Response No. 1 or Response No. 2. Supplemental Data Request Response Sets will be provided to the CEC in response to the data requests not addressed in this document.

Table 3. Outstanding Data Responses

Data Request Resources Area	Data Request Number
Biological Resources	DR BIO-1 through DR BIO-79

2 Global Revision

The official title of the Project is the Potentia-Viridi Battery Energy Storage System Project, as correctly listed on the CEC docket. However, in some sections and reports of the Opt-In Application, the word "System" was omitted from the Project title. Therefore, a global revision should be applied throughout the Opt-In Application to ensure the Project is consistently referred to as the Potentia-Viridi Battery Energy Storage System Project.

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3 Mandatory Opt-In Requirements

3.1 Data Requests DR MAND-1 through DR MAND-6

3.1.1 Data Request DR MAND-1

DR MAND-1. *Provide a discussion of how the Potentia-Viridi Battery Energy Storage System would meet the requirements of discretionary project seeking certification under the opt-in application process.*

Response: In accordance with California Code of Regulations, Title 20, Section 1877(b), the following provides an explanation of how the Project meets one or more of the definitions of "facility" in California Public Resources Code (PRC) Section 25545(b) (20 CCR 1877[b]; PRC Section 25545[b]).

Per PRC Section 25545(b), "facility" means any of the following:

1. A solar photovoltaic or terrestrial wind electrical generating powerplant with generating capacity of 50MW or more and any facilities appurtenant thereto (PRC Section 25545[b][1]).
2. An energy storage system as defined in Section 2835 of the Pub. Util. Code that can store 200 MWh or more of electrical energy (PRC Section 25545[b][2]).
3. A stationary electrical generating powerplant using any source of thermal energy, with a generating capacity of 50 MW or more, excluding any powerplant that burns, uses, or relies on fossil or nuclear fuels (PRC Section 25545[b][3]).
4. A discretionary project that Applicant has certified that a capital investment of at least $250,000,000 will be made over a period of 5 years. Provide what the facility would manufacture, produce, or assemble, and how the facility's products or services would be used in the manufacture, production, or assembly of the following:

a. Energy storage systems or component manufacturing,

b. Wind systems or component manufacturing,

c. Solar photovoltaic energy systems or component manufacturing, or

d. Specialized products, components, or systems that are integral to renewable energy or energy storage technologies (PRC Section 25545[b][4]; 20 CCR 1877[b]).

The Project involves the construction and operation of an energy storage system that can store up to 3,200 megawatt-hours and in any configuration greater than 200 megawatt-hours. Therefore, the Project meets the definition of a "facility" per PRC Section 25545(b), paragraph (2).

3.1.2 Data Request DR MAND-2

DR MAND-2. *Pursuant to California Code of Regulations, title 20, section 1877(f) requirement, please provide:*

a. Updated "…preliminary information that demonstrates overall **net** positive economic benefit to the local government that would have had permitting authority over the site and related facility."

b. The assumptions used to run the economic model updates, including:

i. A list of specific assumptions (i.e., inputs) for the economic model (e.g., IMPLAN or additional assumptions outside of IMPLAN) that estimates net benefits (including positive and negative economic events). Note that a negative economic event is not necessarily a negative economic effect of the project. See above discussion for definition of negative event.

ii. The assumptions for all benefits identified, as well as the "negative events," including employment growth, infrastructure improvements, and property and sales tax revenues.

iii. If IMPLAN is utilized, export the IMPLAN project configuration file and provide the downloaded .JSON file.

iv. A list of specific assumptions for utility interconnect fees for initial connection and ongoing connection fees.

v. Battery energy storage system (BESS) specifications including specifics around roundtrip system efficiency, degradation factor, functionality from years 20-35, and maintenance estimates.

vi. Information about the location of production for the BESS, highlighting any specific local production and assumptions related to available tax credits for the system, including from the Inflation Reduction Act, and other incentives available to the project.

vii. Capital and O&M costs for the lifetime of the system.

viii. Assumptions related to expected annual revenues of the BESS.

Response:

a. The Project would generate gross and net positive impacts to Alameda County.

As discussed in Section 3.6.3 of Attachment 1, CONFIDENTIAL Revised Socioeconomic Analysis and within Revised Section 3.16, Socioeconomics (Attachment 2), an updated socioeconomics analysis prepared by Stanley R. Hoffman Associates and filed in ~~both~~ the confidential ~~and redacted~~ version~~s~~ (hereinafter "Socioeconomics Report"), the Project will have net positive economic and employment benefits to Alameda County over the Construction and Operations phases. Any loss associated with the replaced current on-site grazing activity is negligible on the BESS portion of APN 99B-7890-002-04.

As discussed in detail Section 3.6.4 of the Socioeconomics Report, the Project will have net positive fiscal impact on the Alameda County General Fund recurring annually over the Project's Operation Phase. This net fiscal impact estimation accounts for the County's cost of providing countywide services and any losses associated with the replacement of current grazing activity on the BESS portion of APN 99B-7890-002-04.

1. Employment Growth:

Construction Phase: As shown in Section 3.2.1 of the Socioeconomics Report, the Project generates total 137 on-site full-time equivalent (FTEs) employment related to construction activities, of which around 120 FTEs are projected to be local hires. Additionally, as shown in Section 3.3, capital expenditures in machinery and equipment are projected to generate 194 jobs in local industries receiving these procurement orders.

Operations Phase: As shown in Section 3.4 of the Socioeconomics Report, the Project generates total of 18 on-site full-time employees, who are projected to be hires within the study area.

Replaced Current Site Activity: As shown in Section 3.5, the proposed Project will replace grazing activity of Beef Cattle on approximately 70 acres portion of the larger site. This results in negligible output and employment loss to the Beef Cattle industry output (NAICS 112111).

Net Impacts: The overall net impacts from the Project within the study area is positive after accounting for gross employment gains over the construction and operations periods and the negligible loss related to the replaced grazing activities.

1. Housing Development

As noted in Section 3.6.2 of the Socioeconomics Report, the Project will not have any negative impacts on housing in the study area given the availability of an estimated 6,100 vacant units within a 45-minute commute shed.

2. Infrastructure and Environmental Improvements

The extent of any infrastructure and environmental improvements to be required as part of approval process for the Project is, as yet, unknown.

3. Assistance to Public Schools and Education

As noted in Section 2.5 of the Socioeconomics Report, the Lammersville Joint USD imposes a mitigation fee of $0.78 per square foot on new commercial and industrial development within its district boundaries. Further, as shown in Appendix Table A-2 of the Socioeconomics Report, nearly 25% of the 1% property tax paid annually will go to school and education related funding.

4. Assistance to Public Safety Departments and Agencies

Property tax generated by the Project contributes directly to public protection services. As discussed in Section 2.4 of the Socioeconomics Report, the County General Fund receives 28.2% share of the 1% property tax generated by the Project, which directly funds public protection services. Additionally, the Alameda County Fire District receives a share of 8.7% of the 1% property tax, as discussed in Section 2.6 of the Socioeconomics Report.

5. Property Tax and Sales Tax Revenues

As discussed in Section 3.6.4 of the Socioeconomics Report, over the Construction Phase the Project is estimated to generate considerable cumulative property tax revenues and one-time sales tax revenue.

As discussed in Section 3.6.4 of the Socioeconomics Report, over the Operations Phase the Project is estimated to generate significant property tax revenues, along with sales tax revenues.

b. The assumptions used to run the economic model updates, including:

   i. A list of specific assumptions (i.e., inputs) for the economic model (e.g., IMPLAN or additional assumptions outside of IMPLAN) that estimates net benefits (including positive and negative economic events). Note that a negative economic event is

not necessarily a negative economic effect of the project. See above discussion for definition of negative event.

The assumptions for the 'positive' and 'negative' events have been provided in detail in the report in Sections 3.1 through 3.6 of the Socioeconomics Report.

ii. The assumptions for all benefits identified, as well as the "negative events," including employment growth, infrastructure improvements, and property and sales tax revenues.

The assumptions for the 'positive' and 'negative' events have been provided in detail in the report in Sections 3.1 through 3.6 of the Socioeconomics Report.

iii. If IMPLAN is utilized, export the IMPLAN project configuration file and provide the downloaded .JSON file.

These confidential files will be uploaded through the CEC portal.

iv. A list of specific assumptions for utility interconnect fees for initial connection and ongoing connection fees.

Initial costs associated with interconnection facilities and network upgrades, and costs associated with ongoing operations paid to PG&E, are presented in the Socioeconomics Report.

v. Battery energy storage system (BESS) specifications including specifics around roundtrip system efficiency, degradation factor, functionality from years 20-35, and maintenance estimates.

Roundtrip efficiencies and energy degradation factors, and predicted functionality over the expected Project's lifetime and maintenance estimates, are presented in the Socioeconomics Report.

vi. Information about the location of production for the BESS, highlighting any specific local production and assumptions related to available tax credits for the system, including from the Inflation Reduction Act, and other incentives available to the project.

The current market for domestically produced BESS components, such as battery cells and modules, is limited and cost-prohibitive in the timelines needed for this Project. As such, qualification for the IRA Domestic Content Bonus Tax Credits is not currently the base case assumption. The Project team will continue to evaluate options as market conditions and domestic manufacturing capabilities evolve.

The Project will pursue the base IRA Investment Tax Credit (ITC) by meeting prevailing wage and apprenticeship requirements. The Project also qualifies for the Energy Community Bonus Tax Credit after Alameda County was deemed an Eligible Fossil Fuel Employment County as of June 6, 2024.

vii. Capital and O&M costs for the lifetime of the system.

Capital and O&M costs are discussed in Sections 3.2 through 3.4 of the Socioeconomic Report.

viii. Assumptions related to expected annual revenues of the BESS.

These assumptions are addressed in various sections within the Socioeconomics Report.

3.1.3 Data Request DR MAND-3

DR MAND-3. *Provide a discussion of whether the project meets the requirements of Public Resources Code, sections 21183 and 21183.6.*

Response:

In compliance with California Code of Regulations, Title 20, Section 1877(h), Levy Alameda LLC submits the following discussion as to how the Project meets the requirements of PRC Sections 21183 and 21183.6.

PRC Section 21183(a)(1)

The Project exceeds the minimum investment requirement of PRC Section 21183(a)(1).

PRC Section 21183(a)(1): The project will result in a minimum investment of one hundred million dollars ($100,000,000) in California upon completion of construction.

The Applicant certifies that it will invest in excess of one hundred million dollars ($100,000,000) in California during development, construction and operation of the Project. As shown in Section 3.2.2 of the socioeconomic report (Attachment 1), the Project meets this requirement. This response also satisfies the request in DR MAND-4.

PRC Section 21183(b) (also responds to DR MAND-5)

The Project will satisfy the requirements of PRC Section 21183(b), which incorporates by reference the standards in Section 21183.5(c), by creating high-wage, highly skilled jobs that pay prevailing wages and living wages; providing construction jobs and permanent jobs for Californians; helping reduce unemployment; and promoting apprenticeship training.

PRC Section 21183(b): The project creates high-wage, highly skilled jobs that pay prevailing wages and living wages, provides construction jobs and permanent jobs for Californians, helps reduce unemployment, and promotes apprenticeship training. For purposes of this subdivision, a project is deemed to create jobs that pay prevailing wages, create highly skilled jobs, and promote apprenticeship training if the applicant demonstrates to the satisfaction of the Governor that the project will comply with Section 21183.5.

The Applicant certifies that all applicable requirements set forth in PRC Sections 21183(b) and 21183.5(c) will be satisfied. The Project will create high-wage, highly skilled jobs for construction professionals, including carpenters, electricians, and heavy equipment operators; provide permanent jobs for Californians; and help reduce unemployment. The Applicant will ensure that all construction workers, contractors, subcontractors, and apprentices employed will be paid in accordance with PRC Section 21183.5(c)(1), and that a skilled and trained workforce will be used to perform all construction work in accordance with PRC Section 21183.5(c)(2). Concurrent with submitting the response to this data request, the Applicant has submitted a signed commitment that the Applicant will satisfy these requirements.

PRC Section 21183(e): The project applicant has entered into a binding and enforceable agreement that all mitigation measures required under this division to certify the project under this chapter shall be conditions of approval of the project, and those conditions will be fully enforceable by the lead agency, or another agency designated by the lead agency. In the case of environmental mitigation measures, the applicant agrees, as an ongoing obligation, that those measures will be monitored and enforced by the lead agency for the life of the obligation.

PRC Section 21183(f): The applicant agrees to pay the costs of the trial court and the court of appeal in hearing and deciding any case challenging a lead agency's action on a certified project under this division, including payment of the costs for the appointment of a special master if deemed appropriate by the court, in a form and manner specified by the Judicial Council, as provided in the California Rules of Court adopted by the Judicial Council under Section 21185.

PRC Section 21183(g): The applicant agrees to pay the costs of preparing the record of proceedings for the project concurrent with review and consideration of the project under this division, in a form and manner specified by the lead agency for the project. The cost of preparing the record of proceedings for the project shall not be recoverable from the plaintiff or petitioner before, during, or after any litigation.

Simultaneously uploaded with this submittal is a letter of acknowledgement and agreement transmitted from the Applicant to the CEC demonstrating satisfaction of the requirements of PRC Section 21183, subdivisions (e), (f), and (g).

An EIR will be prepared for the proposed Project pursuant to CEQA. Prior to approval of the Project, the EIR must be certified by the CEC, and a mitigation monitoring and reporting plan must be adopted that contains appropriate mitigation measures to reduce the Project's impacts on the environment.

The Applicant agrees to make any mitigation measures required for the Project and fully enforceable by CEC or other appropriate agencies delegated by CEC. The Applicant also agrees to pay the court costs in hearing and deciding any case challenging CEC's action on the Project, as well as the costs of preparing the administrative record for the Project concurrent with the CEQA review process.

PRC Section 21183(h): For a project for which environmental review has commenced, the applicant demonstrates that the record of proceedings is being prepared in accordance with Section 21186.

Simultaneously uploaded with this submittal is a written statement from the Applicant affirming compliance with the requirements of PRC Section 21183(h). The EIR for the Project is being prepared and the draft EIR will be circulated for public review in the coming months. As required under PRC Section 21186, the draft EIR and all other document submitted to, or relied on by, the lead agency in preparing the draft EIR will be made available on an internet website maintained by CEC at the time the draft EIR is released.

3.1.4 Data Request DR MAND-4

DR MAND-4. *Discuss if the project would result in a minimum investment of $100,000,000 in California upon completion. See Public Resources Code, section 21183(a).*

Response: As indicated above in the response to DR MAND-3, and as shown in Section 3.2.2 of the socioeconomic report (Attachment 1), the Project will result in investments greater than $100,000,000 in California.

3.1.5 Data Request DR MAND-5

DR MAND-5. *Discuss if the project would create high-wage, highly skilled jobs that pay prevailing wages and living wages, provides construction jobs and permanent jobs for Californians, help reduce unemployment, and promote apprenticeship training. See Public Resources Code, section 21183(b).*

Response: The Applicant certifies that all applicable requirements set forth in PRC Sections 21183(b) and 21183.5(c) will be satisfied. The Project will create high-wage, highly skilled jobs for construction professionals, including carpenters, electricians, and heavy equipment operators; provide permanent jobs for Californians; and help reduce unemployment. The Applicant will ensure that all construction workers, contractors, subcontractors, and apprentices employed will be paid in accordance with PRC Section 21183.5(c)(1), and that a skilled and trained workforce will be used to perform all construction work in accordance with PRC Section 21183.5(c)(2).

Concurrent with submitting the response to this data request, the Applicant has submitted a signed commitment that the Applicant will satisfy all applicable requirements. This commitment supplements the labor certification made by the Applicant concerning compliance with PRC Sections 25545.3.3 and 25545.3.5 (TN no. 258039).

3.1.6 Data Request DR MAND-6

DR MAND-6. *Please include a discussion of the baseline conditions of GHG. Please describe the existing GHG setting, including the regulatory setting. Include a discussion of BAAQMD's approach to GHG analysis and significance thresholds and the local GHG reduction strategy. Discuss the GHGs emitted by sources that would be reduced as a result of the project to bring the project into net-zero emissions and beyond, etc.*

Response: A discussion of baseline conditions of greenhouse gases (GHGs) has been included in Section 3.1.4, Sources of Greenhouse Gas Emissions, and a discussion of GHGs emitted by the Project has been added to Section 3.4.1, Project GHG Emissions, of the Air Quality and Greenhouse Gas Emissions Technical Report (see Attachment 3). GHG emissions emitted by the Project are primarily a result of energy consumption to power the battery energy storage system (BESS). As Pacific Gas and Electric (PG&E), the energy provider for the Project, moves towards meeting the state's Renewable Portfolio Standard goals of 100% renewable energy by 2045 as established in Senate Bill 100, GHG emissions from the Project would be reduced. Additionally, the Project would assist PG&E and the state in meeting the Renewable Portfolio Standard goals by supporting the use of intermittent renewable energy like solar and wind energy generation, which accounted for approximately 50% of PG&E's renewable energy generation in 2022 by storing excess electricity when demand and costs are low and renewable electricity generation is highest and then discharging during periods of high demand and cost or when renewable energy generation is low. This also has the potential to reduce PG&E's use of fossil fuels during peak electricity demand. As stated in the California Air Resources Board (CARB) 2022 Scoping Plan, energy storage is a "crucial pillar" in decarbonizing the electricity sector and to the state's GHG emission reduction goals. Therefore, the Project would become net-zero over time as PG&E's electricity generation sources shift towards renewables, and the Project would assist the state in meeting its renewable energy goals outlined in Senate Bill 100.

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4 Air Quality

4.1 Data Requests DR AQ-1 through DR AQ-13

4.1.1 Data Request DR AQ-1

DR AQ-1. *Please provide the engine manufacturer specification sheets, including the criteria air pollutant emissions, the heating value and chemical characteristics of the proposed fuels, the stack height and diameter, and the exhaust velocity and temperature. Please provide a description of the control technologies proposed to limit the emission of criteria pollutants.*

Response: The Project would include two identical generators for use during a loss of power from the gird or other emergency. The engine manufacturer specification sheets are included as Appendix F of the Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3). Appendix F also includes specification sheets for the proposed control technologies (EcoCube).

4.1.2 Data Request DR AQ-2

DR AQ-2. *Please provide a screening level air quality modeling analysis, or a more detailed modeling analysis if so desired by the applicant (using AERSCREEN or AERMOD) demonstrating that the project commissioning and operation, including the emergency generator and other emission sources included in Table 3.1-8, would comply with ambient air quality standards. Please provide the associated modeling files and results.*

Response: An air quality modeling analysis has been added to the Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3). Section 2.4.2.5 of the technical report includes a discussion of the dispersion modeling methodology and Section 2.5.2.2 includes the results and impact conclusions of the air quality modeling analysis. The results of the analysis have also been added to Revised Section 3.1, Air Quality, of the Opt-In Application (Attachment 4). The modeling files are also included as Appendix C of the Air Quality and Greenhouse Gas Emissions Technical Report.

4.1.3 Data Request DR AQ-3

DR AQ-3. *Please provide a cumulative air quality modeling impacts analysis of the project's emergency generator in combination with other stationary emissions sources within a 6-mile radius that have received construction permits but are not yet operational or are in the permitting process. Otherwise, provide justification for why a cumulative modeling analysis is not needed, considering things such as, engine emission rates, location of maximum impacts, distance from sensitive receptors and distance from other permitted sources.*

Response: The BAAQMD's Permit Application Received database was reviewed to determine if any approved permits within the last 2 years were within a 6-mile radius of the Project. The review determined that there were no approved permits within a 6-mile radius of the Project site. Therefore, no cumulative air quality modeling impact analysis is required.

4.1.4 Data Request DR AQ-4

DR AQ-4. *Please provide a detailed description of the mitigation the applicant plans on utilizing to reduce construction related impacts.*

Response: Required mitigation and compliance with BAAQMD rules are discussed in the Revised Section 3.1, Air Quality (Attachment 4). In summary, the Project would be required to comply with BAAQMD rules to reduce fugitive dust during construction and would be required to use tier 4 engine equipment for heavy duty construction equipment greater than 50 horsepower for the duration of construction per Mitigation Measure (MM) AQ-1.

4.1.5 Data Request DR AQ-5

DR AQ-5. *Since an emergency generator would be used, please provide a completeness determination letter from the BAAQMD confirming that the application submitted to the District has been deemed complete.*

Response: The BAAQMD has been contacted and a permit application for the two emergency generators is being processed by the BAAQMD. All correspondence to date, inclusive of the permit application, is provided in Attachment 5.

4.1.6 Data Request DR AQ-6

DR AQ-6. *Please provide tables that identify each agency with jurisdiction to issue applicable permits, leases, and approvals or to enforce identified laws, regulations, standards, and adopted local, regional, state and federal land use plans, and agencies that would have permit approval or enforcement authority, but for the exclusive authority of the Commission to certify sites and related facilities.*

Response: Table 4 is provided below and identifies each agency with jurisdiction to issue applicable air quality-related permits, leases, and approvals or to enforce identified laws, regulations, standards, and adopted local, regional, state and federal land use plans, and agencies that would have permit approval or enforcement authority, but for the exclusive authority of the Commission to certify sites and related facilities.

Table 4. Laws, Ordinances, Regulations, and Standards

LORS	Requirements/ Applicability	Administering Agency
Federal		
Clean Air Act	Establishes federal ambient air quality standards	USEPA
State		
Clean Air Act	Establishes state ambient air quality standards	CARB
Local		
Bay Area Air Quality Management District Rules and Air Quality Management Plans	Regulates air pollutant emissions throughout the San Francisco Bay Area Air Basin	BAAQMD

4.1.7 Data Request DR AQ-7

DR AQ-7. *Please provide the name, title, phone number, address (required), and email address (if known), of an official who was contacted within each agency, and provide the name of the official who will serve as a contact person for CEC staff.*

Response: Table 5 provided below contains contact information for agencies related to air quality. The contacts have not been contacted previously regarding the Project but have been identified as the appropriate contacts for Commission staff.

Table 5. Permits and Agency Contacts

Issue/Approval	Agency	Contact
Public exposure to air pollutants	California Air Resources Board	Steven S. Cliff, Executive Officer 1001 I Street, Sacramento, California 95814 800.242.4450
	Bay Area Air Quality Management District	Isis O. Virrueta Air Quality Engineer II (she/her) Bay Area Air Quality Management District Engineering Division ivirrueta@BAQMD.gov

4.1.8 Data Request DR AQ-8

DR AQ-8. *Please provide justification for using the less conservative emission rates for NOx and $PM_{2.5}$ in the AAQA for construction.*

Response: Construction emission rates in the Screening AAQA for have been updated based on the revised modeling. Please see Attachment 3, Air Quality and Greenhouse Gas Emissions Technical Report, to see the revised modeling data.

4.1.9 Data Request DR AQ-9

DR AQ-9. *Please update the AAQA for construction using conservative emission rates if deemed necessary.*

Response: The correct emission rates have been applied in the updated AAQA. See Attachment 3, Air Quality and Greenhouse Gas Emissions Technical Report.

4.1.10 Data Request DR AQ-10

DR AQ-10. *Please provide clarification regarding the discrepancies between the X/Q values used in the AAQA for construction as shown in the application (TN 258061) and those from the actual AERMOD modeling files.*

Response: The X/Q values used in the AAQA for construction shown in the application were correct. The HRA AERMOD modeling files were incorrectly placed in the AAQA appendix. This has been corrected and is included in Attachment 3, Air Quality and Greenhouse Gas Emissions Technical Report.

4.1.11 Data Request DR AQ-11

DR AQ-11. *Please update the AAQA for construction using the actual AERMOD outputs if deemed necessary.*

Response: See the response above. The AAQA used the correct AERMOD values and the outputs shown in have been fixed and are provided in Attachment 3, Air Quality and Greenhouse Gas Emissions Technical Report.

4.1.12 Data Request DR AQ-12

DR AQ-12. *Please provide a refined AAQA for annual PM_{10} and annual $PM_{2.5}$ impacts during construction to demonstrate that the project impacts would not exceed SILs at sensitive receptors (including residences). A refined approach may include using the annual emissions, instead of maximum daily emissions, for annual impacts analysis.*

Response: The revised screening AAQA (Attachment 3) shows that the construction that the revised annual PM emissions would be below the SILs after implementation of MM-AQ-1. Therefore, a refined AAQA would not be required.

4.1.13 Data Request DR AQ-13

DR AQ-13. *Please provide additional mitigation measures to reduce construction PM10 and PM2.5 impacts to less than significant if deemed necessary.*

Response: No additional mitigation beyond MM-AQ-1 would be required to reduce impacts related to construction PM10 and PM2.5 to less than significant as detailed in the Revised Section 3.1, Air Quality (Attachment 4).

5 Greenhouse Gas Emissions (Climate Change)

5.1 Data Request DR GHG-1 through DR GHG-8

5.1.1 Data Request DR GHG-1

DR GHG-1. *Please provide a table itemizing all emission sources and corresponding GHG emissions for both project construction and operation phases.*

Response: Please see Attachment 3, Air Quality and Greenhouse Gas Emissions Technical Report, which includes a GHG emissions inventory from all emission sources from construction and operation of the Project. The construction GHG emission table is on page 75 of Attachment 3 and the operational GHG emissions are on Page 76.

5.1.2 Data Request DR GHG-2

DR GHG-2. *Please demonstrate that the project does not result in any net additional emission of greenhouse gases, including greenhouse gas emissions from employee transportation.*

Response: The Project would result in GHG emissions related to employee transportation. The Project would have up to an equivalent of 20 full-time employees (although 18 is assumed in the Project Description). GHG emissions for employee transportation are included in the operational GHG emission inventory on Page 76 of the Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3).

5.1.3 Data Request DR GHG-3

DR GHG-3. *Has the project applicant explored the procurement of renewable diesel for the emergency generator as a means of demonstrating consistency with the goal of carbon neutrality established in SB 100 and BAAQMD's Diesel Free by '33? If not, why not?*

Response: The proposed backup generators have the dual fuel capabilities and the intent is to run the generators on bio-diesel.

5.1.4 Data Request DR GHG-4

DR GHG-4. *Please demonstrate how the project would comply with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions.*

Response: Section 3.4.2 of the Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3) includes a complete discussion of the applicable plans, policies and regulations including the BAAQMD's Project Design Element Requirements, conflict with the 2017 Scoping Plan, and the 2022 Scoping Plan.

5.1.5 Data Request DR GHG-5

DR GHG-5. *Please confirm whether or not the project would use SF_6 in the circuit breakers and/or gas-insulated switchgear.*

Response: It is our understanding that there is currently no alternative for SF_6 in 500 kV breakers. Therefore, the Project will use SF_6. GHG emissions associated with SF_6 are accounted for in the Project's operational GHG inventory in Attachment 3.

5.1.6 Data Request DR GHG-6

DR GHG-6. *If the project is proposing to use SF_6, please describe how the project would comply with the phase-out provisions and quantify the associated CO2e emissions.*

Response: The phase-out date for use of SF_6 in breakers greater than 245 kV is January 1, 2033. The Project's anticipated operational date would be before January 1, 2033, therefore the Project's use of SF_6 in its 500 kV breakers would not conflict with the phase-out provisions as established in CARB's SF_6 phase-out regulations. Emissions associated with SF_6 during Project operation are included in the operational GHG emission inventory on Page 76 of the Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3).

5.1.7 Data Request DR GHG-7

DR GHG-7. *Please provide the loss in round-trip efficiency for the charging/discharging cycle, and the GHG emission intensity factor during charging.*

Response: The round-trip efficiency (RTE) of the Project will be 85.5% in the first year of operation. At Year 20, the RTE will be 82.6%. The GHG emission intensity factors utilized in the GHG analysis are based on California Emissions Estimator Model (CalEEMod) defaults for PG&E and are 203.983 pounds per megawatt-hour (lbs/MWh) for carbon dioxide (CO_2), 0.033 lbs/MWh for methane (CH_4) and 0.004 lbs/MWh for nitrous oxide (N_2O). These intensity factors represent a conservative estimate for the purposes of calculating GHG emissions from the Project. These intensity factors are representative of an annual average GHG intensity for PG&E. However, it is important to note that these GHG intensity factors do not consider the anticipated charging and discharging schedule of the system. This schedule is expected to charge the system predominantly when prices and demand are low, typically during the day, a time when electricity generation is likely to be sourced from photovoltaic solar or other renewable energy sources and discharge during peak demand in when electricity costs are high and the GHG intensity factors are higher from the use of natural gas peaking power plants. Therefore, the actual GHG emissions may be lower than our conservative estimates suggest due to the potential for increased used of renewables during charging compared to what was modeled.

5.1.8 Data Request DR GHG-8

DR GHG-8. *Please clarify whether GHG emissions would be associated with the BESS cooling. If GHG emissions are expected, please provide the estimated amounts of these GHG emissions.*

Response: BESS cooling and other ancillary energy demand associated with the Project was accounted for in the revised Operational GHG emission inventory on page 76 of the Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3).

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6 Executive Summary

6.1 Data Requests DR ES-1 through DR ES-3

6.1.1 Data Request DR ES-1

DR ES-1. *Please identify the person or persons responsible for the preparation of each principal subject area.*

Response: Table 6 identifies the person or persons response for the preparation of each principal subject area.

Table 6. Primary Authors of Opt-In Application by Principle Subject Area

Organization	Role	Name
Levy Alameda LLC	Project Management and Overall Application Preparation (Introduction, Project Description, etc.)	Patrick Leitch, Chief Operating Officer, Capstone Infrastructure Corporation
		Andrea Kausel, Vice President, Development, Capstone Infrastructure Corporation
		Mathew Hanna, Vice President, Capital Project Execution, Capstone Infrastructure Corporation
		Pierre Permingeat, Director, Legal, Capstone Infrastructure Corporation
		Pirouz Lotfi, Senior Electrical Engineer, Capstone Infrastructure Corporation
		Lauren McLeod, Director of Development, California, Capstone Infrastructure Corporation
		Kelly Strain, Environmental and Permitting Manager, Capstone Infrastructure Corporation
		Scott Meyers, Environmental and Permitting Associate, Capstone Infrastructure Corporation
		Paul Miller, Country Manager US, Eurowind Energy
		Dwain Boettcher, Senior Vice President, Project Development, Eurowind Energy
		Rocio Perez, Permitting and Development Specialist, Eurowind Energy
Moore Development Services	Project Management and Overall Application Preparation (Introduction, Project Description, etc.)	Joel Moore, Principal/Founder
Allen Matkins Leck Gamble Mallory & Natsis LLP	Project Management and Overall Application Preparation (Executive Summary, Project Description, etc.)	Dana Palmer, Esq., Partner
		Barry Epstein, Esq., Partner
		Mitch Zafer, PE, Principal, Energy Storage

Table 6. Primary Authors of Opt-In Application by Principle Subject Area

Organization	Role	Name
Coffman Engineers, Inc.	Project Management and Engineering Design of BESS Facility	Sisi Cooper, Senior Process Safety Management Consultant, Process Engineering
		Lexi Beebe, PE, Senior Engineer
Dashiell	Engineering Design of Transmission System	Brandon Russell, PE, Supervising Engineer - Transmission
Dudek	Project Management and Overall Application Preparation (Executive Summary, Project Description, etc.)	David Hochart, Vice President of Strategic Growth
		Ronelle Candia, Project Manager II
		Cindi Hoover, Project Manager I
		Stephanie Hanson-McKenzie, GIS Analyst II
		Steve Taffolla, Project Services Deliver Directo
Dudek	Air Quality, GHG, and Public Health Technical Report and Application Section	Adam Poll, QEP, LEED AP BD+C – Air Resources Specialist V
		Nicholas Lorenzen - Air Resources Specialist III
Dudek	Biological Resources, Biological Technical Report and Application Section	Laura Burris, Project Manager I
Stantec	Biological Resources, Incidental Take Permit and Lake or Streambed Alteration Agreement	Michelle Tovar, Senior Principal Biologist - Practice Leader
		Jared Elia, MSc, Senior Biologist
Integral	Biological Resources, Federal Waters Permitting	Cameron Johnson, Principal
Dudek	Cultural Resources Technical Report and Application Section	Adam Giacinto, Associate Practice Director, Cultural/Paleo
		Nicholas Hanten, Archeologist III
		Patricia Ambacher, Architectural Historian V
Terracon	Geotechnical Report	Noah T. Smith, P.E, G.E, Manager Regional Services
Dudek	Geological Hazards and Resources Application Section	Perry Russell, PG, CEG, Geologist IV
Tetra Tech	Soil Sampling Plan and Report	Steven Grod, Project Environmental Scientist
Coffman Engineers, Inc.	Hazardous Materials Handling Application Section	Mark Gouveia, PE, Principal, Fire Protection Engineering
Dudek	Hazardous Materials Handling Application Section	Audrey Herschberger, Environmental Engineer IV
		Travis Marella, Environmental Compliance Specialist III
Dudek	Land Use Application Section	Cindi Hoover, Project Manager I
Allen Matkins Leck Gamble Mallory & Natsis LLP	Land Use Application Section	Dana Palmer, Esq., Partner
		Barry Epstein, Esq., Partner
Dudek	Noise Technical Report and Application Section	Mark Storm, INCE Bd. Cert., Environmental Acoustician V
		Cole Martin, Environmental Acoustician IV
Dudek	Paleontological Resources Technical Report and Application Section	Sarah Siren, Paleontologist IV
		Michael Williams, Paleontologist IV

Table 6. Primary Authors of Opt-In Application by Principle Subject Area

Organization	Role	Name
Stanley R. Hoffman Associates, Inc.	Socioeconomics Technical Report	Dr. Bravish Mallavarapu, PhD, Director/Principal Economist
Dudek	Socioeconomics Application Section	Tracy Ortega, Environmental Planner II
Dudek	Soils Application Section	Perry Russell, PG, CEG, Geologist IV
Dudek	Traffic and Transportation Technical Report and Application Section	Lisa Valdez, Transportation Specialist V
		Amanda Meroux, EIT, Transportation Specialist III
Dudek	Visual Simulations and Visual Resources Application Section	Paul Caligiuri, CADD Manager
		Cindi Hoover, Project Manager I
Coffman Engineers, Inc.	Lighting Plan	Sisi Cooper, Senior Process Safety Management Consultant, Process Engineering
Dudek	Waste Management Application Section	Nicolo De Jerlando, Environmental Compliance Specialist II
Dudek	Hydrology Report	Matt Naftaly, PG, PH, Project Manager II
Dudek	Water Supply Assessment	Matt Norcott, Hydrogeologist III
Dudek	Water Resources Application Section	Perry Russell, PG, CEG, Geologist IV
Coffman Engineers, Inc.	Fire Protection Technical Assistance Report, Fire Master Plan, and Emergency Operation Plan	Mark Gouveia, PE, Principal, Fire Protection Engineering
		Tom DeMasi, PE, Discipline Manager, Fire Protection Engineering
Dudek	Worker Health and Safety Application Section	Ronelle Candia, Project Manager II
Dudek	Fire Safety Plan and Wildfire Application Section	Noah Stamm, Fire Protection Planner IV
		Jeremy Cawn, Fire Protection Planner IV
Dudek	Alternatives Application Section	Ronelle Candia, Project Manager II

6.1.2 Data Request DR ES-2

DR ES-2. *Please provide a full-page color photographic reproduction depicting the visual appearance of the site prior to construction, and a full-page color simulation or artist's rendering of the site and all project components at the site, after construction. This should clearly show the project site, including all project components, with existing and proposed conditions and should not be from the Patterson Pass Road vantage point. It should be a closer vantage point such as the access road entrance into the BESS facility.*

Response: While visual simulations were previously created to show impacts from public viewsheds, Key Observation Point (KOP) 4 was added to the Revised Section 3.13, Visual Resources (Attachment 6) and is the viewshed from the private gravel road located along the northern boundary of the Project Stie, looking South. The visual appearance of the site prior to construction for KOP 4 is included as Figure 3.13-3D and the simulated visual appearance of the site after construction for KOP 4 is included as Figure 3.13-4D.

Figure 2-5, 3D Aerial Perspective included in Revised Section 2, Project Description (Attachment 7), shows the full simulation of the Project site as there is not a view where the entire site would be full visible.

6.1.3 Data Request DR ES-3

DR ES-3. *Please provide the direct mailing addresses for occupants of properties contiguous to the proposed energy storage facility, related facilities, transmission lines, or other linear facilities as shown on the latest equalized assessment roll. If the property does not have a street address and/or is not occupied, please identify it as such.*

Response: The updated ownership information and figure are included as Attachment 8 to this document and have been revised to include the requested information.

7 Hazardous Materials Handling

7.1 Data Requests DR HAZ-1 through DR HAZ-7

7.1.1 Data Request DR HAZ-1

DR HAZ-1. *Please confirm that the project does not include a solar PV facility.*

Response: The Project is for the construction and operation of a Battery Energy Storage Facility only and does not propose the installation of a solar PV facility. The PV in the name of the Project stands for "Potentia-Viridi" not Photo-Voltaic.

7.1.2 Data Request DR HAZ-2

DR HAZ-2. *Please prepare and implement a soil sampling plan for the project site including testing for herbicides and pesticides and CAM-17 metals per the California Administrative Manual.*

Response: A Soil Sampling and Analysis Plan was prepared by Tetra Tech on October 21, 2024 and was implemented as part of this Data Request. The technical memo is included as Attachment 9.

7.1.3 Data Request DR HAZ-3

DR HAZ-3. *For Table 3.5-2, please provide typical quantities (estimated quantities) for each hazardous material listed.*

Response: Estimated quantities were previously provided for each hazardous material listed in Table 3.5-2, with the exception of the lithium-ion batteries that would be installed for this Project. Due to the constantly improving and changing technology of these energy storage systems, a specific manufacturer and model has not been selected at this time. Based on industry averages, the maximum expected quantity by weight is as follows: Lithium: 5–10%; Cobalt: 5–15%; and Nickel: 5–25%. It is important to note that elements are all sealed with the battery cells. Even when the cell is physically damaged, the internal chemicals will not "pour" out of the cells. Section 3.5, Hazards, has been updated to reflect this language (Attachment 10).

7.1.4 Data Request DR HAZ-4

DR HAZ-4. *Please adjust the scale of Figure 3.5-1 to 1:24,000.*

Response: The scale of the figure has been adjusted to 1:24,000 per the CEC's request and is included in the Revised Section 3.5, Hazards (Attachment 10).

7.1.5 Data Request DR HAZ-5

DR HAZ-5. *Please discuss actions that the project could implement to reduce the probability of lithium battery fires during transportation of batteries to and from the project site and actions to reduce the impact of such fires (if they occur) to motorists.*

Response: Historically fires related to the transportation of Battery Energy Storage Systems originate from the haul vehicle catching fire and spreading to the battery enclosures, or physical damage to the batteries due to an accident. As such Levy Alameda LLC will work with transportation subcontractors to ensure the best practices listed in Section 14 of the Fire Protection Technical Assistance Report (Attachment 11) are implemented.

7.1.6 Data Request DR HAZ-6

DR HAZ-6. *Please identify the Alameda County Fire Department requirements and clarify whether Alameda County has more stringent requirements than the 2022 California Fire Code (CFC).*

Response: Alameda County has incorporated the 2022 California Fire Code under Chapter 6.04 of their municipal code. There are modifications, but none directly related to battery energy storage system installations. Note that due to the remote nature of the Project location, Alameda County Fire is deferring to the State of California Fire Marshal (CAL FIRE) for plan review and permitting on this Project.

7.1.7 Data Request DR HAZ-7

DR HAZ-7. *Please provide names and associated contact information for any officials/agencies that were contacted for hazardous material and hazards information related to the preparation of Section 3.9. Please provide the name of the official who will serve as contact person for CEC staff related to hazardous materials.*

Response: Please see Table 7 below for details.

Table 7. Contacted Agencies

Agency Name	Contact	Email	Phone Number/Address	Website
Office of State Fire Marshal	No Specific Contact Available	—	916.568.3800 715 P Street Sacramento, California 95814	—
CAL FIRE - Santa Clara Unit	Steven Blythe, Assistant Chief - Santa Clara Unit	Steven.Blythe@fire.ca.gov	408.472.1604 Cell East Bay Operations 15670 Monterey Rd. Morgan Hill, California 95037	https://www.sscfcd.com/
CAL FIRE - Santa Clara + SCU	Unit Chief Baraka Carter	Baraka.Carter@fire.ca.gov	408.472.1601 408.779.2121	https://www.sscfcd.com/

Table 7. Contacted Agencies

Agency Name	Contact	Email	Phone Number/Address	Website
			15670 Monterey Street, Morgan Hill California 95037	
Alameda County Fire Department	Bonnie S. Terra, Division Chief Alameda County Fire	Bonnie.Terra@acgov.org	925.833.3473 ext. 1210 6363 Clark Ave Dublin, California 94568	https://www.acgov.org/fire/
Alameda County Fire Department	William McDonald, Fire Department Chief	countyfp@acgov.org	925.833.3473	https://fire.acgov.org/fire-prevention/

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8 Land Use

8.1 Data Requests DR LAND-1 through DR LAND-7

8.1.1 Data Request DR LAND-1

DR LAND-1. *Please indicate whether there were any prior FMMP classifications of the site before it was classified as "Grazing Land".*

Response: According to the California Important Farmland Maps on the Department of Conservation's website, the site has been classified by the Farmland Mapping and Monitoring Program as "Grazing Land" since 1984 (the oldest map available).

8.1.2 Data Request DR LAND-2

DR LAND-2. *Please confirm the grazing status of the property and provide the last year it was used for grazing.*

Response: According to the property owner, the property is currently used for livestock grazing, and has been used for livestock grazing since before the property was subject to a Williamson Act contract in 1972.

8.1.3 Data Request DR LAND-3

DR LAND-3. *Please provide any evidence the applicant may have that Alameda County considers electric facilities with large footprints, such as battery storage facilities, as falling under the definition of "electric facility" discussed in Government Code, section 51238(a)(1).*

Response: Government Code Section 51238(a)(1) provides that the erection, construction, alteration, or maintenance of electric facilities are determined to be compatible uses within any agricultural preserve unless the county board of supervisors, after notice and hearing, makes a finding to the contrary. In other words, the Legislature has deemed electric utility facilities presumptively compatible uses.

The Energy Commission's certification authority supersedes any findings of compatibility by Alameda County pursuant to the Williamson Act. Under PRC Section 25545.1(b)(1), the Energy Commission's certification of the site and related facility is "in lieu of any permit, certificate, or similar document required by any state, local, or regional agency . . . for the use of the site and related facilities, and shall supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency." The CEC's siting authority thus supersedes restrictions on the use of contracted land pursuant to the Williamson Act and Alameda County's Uniform Rules because those are state and local laws and regulations that relate to the use of the site and related facilities.

Nevertheless, the Project is an "electric facility" that is compatible with agricultural use under Alameda County's policies. Alameda County has incorporated the presumption in Government Code Section 51238(a)(1) into Uniform Rule 2, Section II.E.1 and Table 1, of its Uniform Rules and Procedures Governing

Agricultural Preserves and Williamson Act Contracts.[1] Notably, the Alameda County Board of Supervisors has not made a finding that either electric facilities generally or the Project specifically are not a compatible use.

Under Alameda County's current policies, a battery storage facility is an "electric facility" and is compatible with agricultural use. According to the Alameda County Large Commercial Solar and Battery Storage Statement of Policy Components (adopted by the Board of Supervisors on May 17, 2022),[2] battery storage facilities are classified as "electrical transmission corridor equipment"—a term that falls squarely within the meaning of "electric facility" as used in Government Code Section 51238(a)(1)—and are expressly "not defined as buildings." The Statement of Policy suggests that battery storage facilities are compatible with agriculture and should be identified as suitable uses in areas (such as the Project site) that are designated for Large Parcel Agriculture in the East County Area Plan (part of Alameda County's General Plan). (The Board of Supervisors has not yet incorporated the Statement of Policy into the East County Area Plan, Zoning Ordinance, and Williamson Act Uniform Rules and Procedures.)

There is also at least one prior Energy Commission siting case in Alameda County having considered other large energy infrastructure projects to be electric facilities. For example, the Alameda County Community Development Agency determined that the Mariposa Energy Project (a 200 MW natural gas electrical generation facility located on 10 acres of a 158-acre parcel of nonprime land under Williamson Act contract) was an electric facility under Government Code Section 51238(a)(1).[3]

8.1.4 Data Request DR LAND-4

DR LAND-4. *Please provide any communications the applicant had with the Alameda County Agricultural Advisory Committee on this project. Please provide the name, title, phone number, address (required), and email address (if known), of the official who was contacted, and provide the name of the official who will serve as a contact person for CEC staff.*

Response: The Applicant has not had any communications with the Alameda County Agricultural Advisory Committee concerning the Project. Contact information for the Committee, including the lead County staffer can be found on the committee's webpage located at https://www.acgov.org/bc/aac/about.htm. Beyond the Committee, the Applicant has had meetings and communications with the County Planning Director, other County officials and appointees, and the Alameda County public about the Project.

1 Alameda County. 2023. "General Plans, Ordinances, & Policies." https://www.acgov.org/cda/planning/generalplans/williamson_act.htm.

2 Alameda County Planning Department. 2022. "Large Commercial Solar and Battery Storage Statement of Policy Components (approved by BOS May 12th, 2022)." https://www.acgov.org/cda/planning/landuseprojects/documents/Statement-of-Policy-FINAL-adopted-by-BOS-5.12.2022.pdf.

3 Letter from C. Bazar to C. Hoffman re "Proposed Mariposa Energy Project, Consistency with Alameda County General Plan and Williamson Act Contracts," Docket Transaction No. 56771, *In re Application for Certification for the Mariposa Energy Project*, Docket No. 09-AFC-03 (dated May 20, 2010; docketed May 21, 2010), pp. 3–4, https://efiling.energy.ca.gov/GetDocument.aspx?tn=56771&DocumentContentId=50987.

8.1.5 Data Request DR LAND-5

DR LAND-5. *Please discuss how the project would be consistent with Government Code section 51238.1, which describes the findings needed to determine that a use is compatible with a Williamson Act contract.*

Response: As discussed in response to DR LAND-3 above, the Energy Commission's certification authority supersedes any findings of compatibility by Alameda County pursuant to the Williamson Act.

Also as discussed in response to DR LAND-3 above, the Project is an electric facility that is presumptively a compatible use. A facility deemed to be a compatible use under Government Code Section 51238 is not required to meet the compatibility requirements of Section 51238.1. Nevertheless, the Project meets the requirements of Government Code Section 51238.1(a) and (c).

Government Code Section 51238.1(a)

The Project complies with Government Code Section 51238.1(a), which provides that uses approved on contracted lands "shall be consistent with all of the following principles of compatibility:

(1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.

(2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. . . .

(3) The use will not result in the significant removal of adjacent contracted land from agricultural or open-space use."

Regarding principles (a)(1) and (a)(2), the contracted land comprises 4,990 acres and is nonprime land that is currently and has historically been used for grazing, with livestock rotated between fields year-round. The Project will affect a negligible portion—approximately 1.4% (approximately 70-acre BESS Site)—of the 4,990 acres of contracted land during the Project's 35-year useful life. The remaining 4,920 acres—98.6% of the contracted land—are large enough to support continued use for livestock grazing at approximately the same intensity as current use. The remaining 4,920 acres of the contracted land will continue to exceed the minimum standard for commercial agricultural use in Section II.C.3.b(1) in Alameda County's Uniform Rules and Procedures: the property will still be much more than 40 acres of nonprime land, much more than 60% of the property will be used for livestock grazing, and the livestock grazing will yield gross annual revenue through leases with livestock companies (see response to DR LAND-6 below). At the end of the Project's useful life, the Project will be decommissioned and the area used by the Project can return to grazing use.

Regarding principle (a)(3), the Project is a standalone energy infrastructure facility adjacent to and in the vicinity of existing energy infrastructure facilities including a substation, transmission lines, and wind turbines. Livestock grazing on the contracted land are accustomed to these nearby energy infrastructure facilities. The Project will not have effects beyond its footprint that would displace, impair, or otherwise affect livestock grazing on the surrounding lands. The Project will not induce development or otherwise result in removal of any adjacent contracted land from agricultural use.

Government Code Section 51238.1(c)

While the Project meets the requirements of Government Code Section 51238.1(a), even if the Project were not in compliance with paragraphs (a)(1) or (a)(2), the Project still would meet the requirements for a compatible use under Section 51238.1(c). This subsection provides that a use on nonprime land may be approved as compatible if:

(1) "Conditions have been required for, or incorporated into, the use that mitigate or avoid those onsite and offsite impacts so as to make the use consistent with the principles set forth in paragraphs (1) and (2) of subdivision (a) to the greatest extent possible while maintaining the purpose of the use.

(2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.

(3) The use is consistent with the purposes of [the Williamson Act] to preserve agricultural and open-space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve. . . .

(4) The use does not include a residential subdivision."

The contracted land is nonprime land.

Regarding paragraphs (c)(1) and (c)(2),as discussed above, the Project will not impair the productive capability of contracted land nor displace or impair agricultural operations, on site or off site. Therefore, no avoidance or mitigation measures are required. If the Energy Commission nevertheless were to determine there are any such impacts, the Energy Commission could impose conditions consistent with Government Code Section 51238.1(c)(1).

Regarding paragraph (c)(3), as discussed above, because the Project will not impair the productive capability of contracted land nor displace or impair agricultural operations, the Project is consistent with the purposes of the Williamson Act and supports the continuation of agricultural uses on the contracted land.

Regarding paragraph (c)(4), the Project does not involve a residential subdivision.

Previous Siting Decision

There is also at least one siting case involving an energy infrastructure facility in Alameda County that was found to be compatible with agricultural use. The Alameda County Community Development Agency found that the Mariposa Energy Project (a 200 MW natural gas electrical generation facility located on 10 acres of a 158-acre parcel of nonprime land under Williamson Act contract, adjacent to existing energy infrastructure facilities on two acres of contracted land) was a compatible use and met the principles of compatibility in the Williamson Act. The Department of Conservation opined that the Mariposa Energy Project met the principles of compatibility in Government Code Sections 51238.1(a) and (c), for reasons similar to the circumstances of the Project: the Department of Conservation explained that the use of 12 acres on a 158-acre parcel (7.6%) did not appear to significantly compromise the long-term agricultural productivity of the contracted parcel; "the area in question has a long history of acting as a major energy and other infrastructure corridor of the State," so "an additional small facility will not create additional stress on neighboring agricultural operations"; grazing was "the only likely agricultural activity that can

occur" on the non-irrigated nonprime land; there was no reason to believe that the project would significantly displace or impair current or reasonably foreseeable agricultural operations; and the project was not likely to result in the significant removal of adjacent contracted land from agricultural or open-space use. The Energy Commission concurred with Alameda County's and the Department of Conservation's conclusions that the Mariposa Energy Project was a compatible use under both Government Code Sections 51238(a)(1) and 51238.1(a). The Energy Commission therefore found that the Mariposa Energy Project would not conflict with Williamson Act requirements.

8.1.6 Data Request DR LAND-6

DR LAND-6. *Please provide the Compatible Use Determination application form and required application materials, required by Alameda County in "Uniform Rules and Procedures Governing Agricultural Preserves and Williamson Act Contracts." Include information on whether there is an existing commercial agricultural use on the property that meets the definitions in Uniform Rule 1, specifically the standards in I.C.1 and I.C.3b.*

Response: The existing agricultural use meets the commercial agricultural use requirements in Uniform Rule 1, Section II.C of Alameda County's Uniform Rules and Procedures Governing Agricultural Preserves and Williamson Act Contracts. Specifically, the property meets the definition of "commercial agricultural use" in Section II.C.1 because the property is used for livestock grazing. The property meets the standard for commercial agricultural use in Section II.C.3.b(1) because the property is nonprime land, the property is at least 40 acres, at least 60% of the property (4,925 acres, or 98.7%, of the 4,990 acres under Williamson Act contract) is used for livestock grazing, and the property yields gross annual revenue through its leasing to livestock companies. Also, please see Attachment 12, which further addresses this data request.

8.1.7 Data Request DR LAND-7

DR LAND-7. *Please provide the contract term for the Non-Prime Farmland Williamson Act contract and include when the current contract term will expire and when it is due to be renewed.*

Response: The contract was effective February 17, 1972, for a term of 10 years, with automatic renewals and one-year extensions on January 1 of each year. The most recent renewal was on January 1, 2024, so the contract will expire December 31, 2033. The contract is provided in Appendix 3.6A to the Application for Opt-In Certification (TN no. 258065).

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9 Noise

9.1 Data Requests DR NOISE-1 through DR NOISE-2

The Revised Noise Report (Attachment 13) and Revised Section 3.7, Noise (Attachment 14), have been updated to reflect the increase in the proposed number of full-time employees to 18 and the use of emergency generators at the Project site during operations.

9.1.1 Data Request DR NOISE-1

DR NOISE-1. ***Please identify the point location of ST-1.***

Response: Information regarding the point location of ST1 has been included in the Noise Technical Report under Section 4.1, Noise Measurements (Attachment 13).

9.1.2 Data Request DR NOISE-2

DR NOISE-2. ***Please explain the reason(s) for the loud noise levels recorded at LT- 1 and identify other noise sources, if any, that contributed to the noise environment at this location during early morning and evening hours. Please identify the location(s) of the "rush hour" traffic.***

Response: The reason(s) for the loud noise levels record at LT-1 have been explained in Section 4, Existing Conditions, subsection 4.1, Noise Measurements of the Revised Noise Report (Attachment 13), including the identification of the "rush hour" location which would be along Patterson Pass Road.

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10 Project Description

10.1 Data Requests DR PD-1 through DR PD-4

Section 2, Project Description, of the Opt-In Application has been revised and submitted as Attachment 7 to this response document.

10.1.1 Data Request DR PD-1

DR PD-1. *Please provide a map at a scale of 1:24,000 (1" = 2000'), (or appropriate map scale agreed to by staff) along with an identification of the dedicated leaseholds by section, township, range, county, and county assessor's parcel number showing the proposed final locations and layout of the energy storage facility and all related facilities, include the gen-tie line route.*

Response: Please see Attachment 15, Lease Area and Surrounding Features, for the scaled map. Please note a map at a scale of 1:24,000 was provided along with a more zoomed in scale for ease of reading.

10.1.2 Data Request DR PD-2

DR PD-2. *Please provide elevation drawings that identify the heights of the battery yard of the energy storage facility, all the tall structures (e.g., H-frames and poles) for the project substation and include the transmission line poles and dead end structure. Structures and heights should correspond to what has been presented in the visual simulations and Table 2-1 (Preliminary Dimensions of Major BESS Facility Components) and Table 2-3 (Preliminary Dimensions of Major Transmission Components) or specify the differences.*

Response: Please see Attachment 16, Civil Plans, for the elevation drawings on Sheets C-1.2 and C-1.3. This plan set also includes the revised Site Plan on Sheet C-1.0, the Preliminary Grading Plan on Sheet C-1.1, and the Preliminary Stormwater Plan on Sheet C-2.0.

10.1.3 Data Request DR PD-3

DR PD-3. *Please provide revised figures, Figure 2.2 (Vicinity Map) and Figure 2.3 (Project Site Aerial) that show the gen-tie route.*

Response: The gen-tie route has been added to Figure 2.2, Vicinity Map and Figure 2.3, Project Site Aerial as requested and are included in the Revised Section 2, Project Description (Attachment 7).

10.1.4 Data Request DR PD-4

DR PD-4. *Please provide a discussion of how facility closure will be accomplished in the event of premature or unexpected cessation of operations.*

Response: Section 2.5, Decommissioning, of the Revised Section 2, Project Description, has been updated to provide the requested discussion facility closure in the event of a premature or unexpected cessation of operations and is included as Attachment 7 to this document.

11 Public Health

11.1 Data Requests DR PH-1 through DR PH-10

11.1.1 Data Request DR PH-1

DR PH-1. *Please provide a map showing sensitive receptor locations for MEIR, MEIW, MESR/MEDR, and MERR, including the distance from the project boundary during project construction.*

Response: A figure that denotes the receptor locations for the maximally exposed individual resident (MEIR), maximally exposed individual worker (MEIW), and maximally exposed school receptor/maximally exposed daycare receptor (MESR/MEDR) and includes their relative distance to the Project boundary has been included as Figure 3.9-1 in Revised Section 3.9, Public Health (Attachment 17). The maximally exposed recreational receptor (MERR) was not included in the figure based on the following:

The construction health risk assessment evaluated the cancer and non-cancer risk impacts to receptors using the Office of Environmental Health Hazard Assessment (OEHHA) 2015 methodology and CARB's Hotspots Analysis and Reporting Program Version 2 (HARP2). Diesel particulate matter (DPM) from construction equipment and heavy-duty diesel trucks was evaluated. DPM does not have an acute (short-term) reference exposure level for non-cancer health impacts in HARP2. Therefore, only long-term cancer and chronic non-cancer risk was evaluated. The MERR represents a receptor that would be exposed to short-term acute durations of emissions and not long-term chronic exposure. Because DPM does not have a short-term reference exposure level, the MERR would not apply to this assessment.

11.1.2 Data Request DR PH-2

DR PH-2. *Please provide an HRA of the project during operation to demonstrate that the project impacts to sensitive receptors (including residences) and offsite worker receptors would be less than significant. If the locations of MEIR, MEIW, MESR/MEDR, and MERR are different from those for project construction, please indicate them on the map provided for DR PH-1.*

Response: An operational HRA was performed to determine the impact associated with operation of the two emergency generators. The methodology used to conduct the HRA and the results of the HRA are included in the Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3) and in Revised Section 3.9, Public Health (Attachment 17).

11.1.3 Data Request DR PH-3

DR PH-3. *Please provide the input data and output results, in both electronic and print formats, used to prepare the HRA.*

Response: The Input data and outputs results are compiled as Appendix E of the updated Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3). Electronic files have been provided to the CEC through a secure share site.

11.1.4 Data Request DR PH-4

DR PH-4. *Please provide clarification regarding the discrepancies between the DPM emissions used in the HRA and those estimated from CalEEMod.*

Response: The discrepancies in the DPM values have been resolved. Please see the Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3) for the complete HRA results and appendices.

11.1.5 Data Request DR PH-5

DR PH-5. *Please update the HRA for construction using the actual CalEEMod outputs if deemed necessary. Please provide the input data and output results, in both electronic and print formats, used to prepare the updated HRA.*

Response: The HRA for construction has been updated and the input data and outputs results have been included in the Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3).

11.1.6 Data Request DR PH-6

DR PH-6. *Please provide tables that identify each agency with jurisdiction to issue applicable permits, leases, and approvals or to enforce identified laws, regulations, standards, and adopted local, regional, state and federal land use plans, and agencies that would have permit approval or enforcement authority, but for the exclusive authority of the CEC to certify sites and related facilities.*

Response: Table 3.9-6 has been added to Section 3.9.5, Laws, Ordinances, Regulations and Standards, of Revised Section 3.9, Public Health (Attachment 17), and provides the requested information.

11.1.7 Data Request DR PH-7

DR PH-7. *Please provide the name, title, phone number, address (required), and email address (if known), of an official who was contacted within each agency, and provide the name of the official who will serve as a contact person for CEC staff.*

Response: Table 8 provided below contains contact information for agencies related to air quality. The CARB contact have not been contacted previously regarding the Project but have been identified as the appropriate contact for Commission staff. The BAAQMD staff has been contacted regarding permitting the proposed emergency generators.

Table 8. Permits and Agency Contacts

Issue/Approval	Agency	Contact
Public exposure to air pollutants	California Air Resources Board	Steven S. Cliff, Executive Officer 1001 I Street, Sacramento, California 95814 800.242.4450
	Bay Area Air Quality Management District	Isis O. Virrueta Air Quality Engineer II (she/her) Bay Area Air Quality Management District Engineering Division ivirrueta@BAQMD.gov

11.1.8 Data Request DR PH-8

DR PH-8. *In Table 3.9-2, there is an incomplete entry in the far-right cell in the first row ("ficant with mitigation"). Please complete the statement for level of significance determination.*

Response: The statement has been corrected in Table 3.9-2 in Revised Section 3.9, Public Health (Attachment 17).

11.1.9 Data Request DR PH-9

DR PH-9. *Table 3.9-3 lists a maximum cancer risk of 4.49 in 1 million, while the paragraph following Table 3.9-3 lists a maximum cancer risk of 4.02 in 1 million. Please correct this discrepancy and confirm the maximum cancer risk.*

Response: The maximum construction health risk has been revised to reflect the revised modeling data and is included in the Air Quality and Greenhouse Gas Emissions Technical Report (Attachment 3) and the maximum cancer risk has been corrected in Revised Section 3.9, Public Health (Attachment 17).

11.1.10 Data Request DR PH-10

DR PH-10. *In Section 3.9.2.6, Summary of Effects, confirm if Table 3.9-3 replace Table 3.9-2 since the former table addresses the mitigation required to get the MICR below the BAAQMD CEQA Threshold.*

Response: The text in Section 3.9.2.6, Summary of Effects, has been revised to clarify that Table 3.9-3 shows the Project would be below the BAAQMD CEQA threshold after mitigation (Attachment 17).

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12 Socioeconomics

12.1 Data Requests DR SOCIO-1 through DR SOCIO-4

12.1.1 Data Request DR SOCIO-1

DR SOCIO-1. *Provide the projected unemployment rate of the region affected by the construction and operation of the project.*

Response: Over the construction period, the Project will generate 134 FTE jobs for construction related activities. Of this 120 FTE labor is projected to be locally hired. While the Project will have a positive one-time impact by providing local employment opportunities, the projected one-time jobs constitute significantly less than 1% of the total jobs within the study region. After the Project construction is concluded, the employed labor should be easily absorbed within the regional economy by other construction projects.

As shown in Appendix Table A-5 of Attachment 1, an updated socioeconomics analysis prepared by Stanley R. Hoffman Associates (hereinafter "Socioeconomics Report"), the Project's peak labor demand by occupational categories as a share of available study area labor supply is significantly below the current unemployment rate in the study region of around 5%. Peak demand for electricians is the largest category and constitutes 1.14% of the study area labor supply. Exceptions to this general trend of labor utilization rates is the demand for electrician apprentices at around 11% share of the regional supply and paving and surfacing operators at around 6% share of the regional labor supply.

The operations phase includes 18 on-site full-time employees, as shown in Section 3.4 of the Socioeconomic Report. While providing local employment opportunities, this constitutes an extremely small share of the overall regional economy.

As discussed in Section 3.5 of the Socioeconomics Report, the replacement of current grazing activities on the BESS portion of the overall parcel has a negligible negative employment impact.

12.1.2 Data Request DR SOCIO-2

DR SOCIO-2. *Provide the capacities, service standards, and existing and expected use levels of parks and recreation facilities, and libraries.*

Response: Employment by itself is not expected to create additional library, and parks and recreation demand within Alameda County and the broader study area. Current Alameda County library and parks and recreation services are discussed in Section 2.6 of the revised Socioeconomics Report (Attachment 1).

The Project is expected to primarily hire workers residing within the study area and therefore no additional household demand for parks and recreation, and library is expected to be generated from the construction and operations and maintenance of the BESS facility.

12.1.3 Data Request DR SOCIO-3

DR SOCIO-3. *Provide the response times to hospitals and for police protection, fire projection, emergency services, parks and recreation facilities and libraries.*

Response: Response times for the hospitals, police and fire protection are included in Section 2.6 of the revised Socioeconomic Report (Attachment 1). Libraries, parks, and recreation facilities are not impacted by the proposed Project.

12.1.4 Data Request DR SOCIO-4

DR SOCIO-4. *Provide a discussion of the impacts to environmental justice populations by technical areas and whether any impacts would disproportionately affect the environmental justice populations.*

Response: A discussion of the impacts of the Project on environmental justice populations by technical areas is included in Section 3.7 of the revised Socioeconomic Report filed concurrently with these responses (Attachment 1).

13 Visual Resources

13.1 Data Requests DR VIS-1 through DR VIS-14

13.1.1 Data Request DR VIS-1

DR VIS-1. *For the appropriate subsections, specifically Subsections 3.13.3.2, 3.13.3.3, 3.13.3.5, 3.13.4, 3.13.5, and 3.13.6, provide a discussion of the potential impact to the visual integrity of the project site's hillside areas and project slopes. Specifically, address (at a minimum) the following issues:*

- *The potential impact to the visual integrity of the project site's hillsides and graded slopes.*
- *The necessary reseeding of graded and disturbed hillside areas and slopes to mimic existing grassland conditions.*
- *Slope and hillside maintenance to remove weeds, inappropriate vegetation, and trash.*
- *Other revegetation and restoration steps necessary to ensure that grading required for the project would not substantially damage the existing topography, thereby helping to preserve the visual integrity of the project's hillside areas and slopes.*
- *Incorporate information from the Temporary Impacts Revegetation and Restoration Plan (Appendix 1L) referenced in Table 3.13-3 as appropriate (briefly summarize and reference).*

Also, please add an additional mitigation measure to be reviewed as part of Subsection 3.13.5 in the application that addresses the impact. As required by California Code of Regulations, title 20, Appendix B (g)(1), address the effectiveness of the proposed measure(s) and any monitoring plans proposed to verify the effectiveness of the mitigation. Please address, any temporary visual impacts that might result from implementation of the Temporary Impacts Revegetation and Restoration Plan (Appendix 1L), as appropriate.

Response: See Revised Section 3.13, Visual Resources (Attachment 6), for discussion related to potential impacts to visual integrity of the Project site's hillside areas and topography. Additional mitigation measure have been added for Visual Resources in accordance with this DR.

13.1.2 Data Request DR VIS-2

DR VIS-2. *Please provide a figure and/or table that identifies the existing overhead utility lines that pass adjacent to the project site and includes the name and kV ratings.*

Response: See Attachment 18, Overhead Utility Lines, of this response document for requested information.

13.1.3 Data Request DR VIS-3

DR VIS-3. *Please expand the discussion of Section 3.13.1.2 Project Site to address any distinguishing natural features, objects, geologic characteristics (e.g., laccolith), or other terrain feature (e.g., open space or a tree) that are recognized for their aesthetic value. If no such features exist on the site, so state.*

Response: See Revised Section 3.13, Visual Resources (Attachment 6), for discussion related to existing distinguishing natural resources on the Project site.

13.1.4 Data Request DR VIS-4

DR VIS-4. *Please provide a discussion of Figures 3.13-4A and 4B and specify the level of maturity of the seeded grasses depicted in the simulations. If the simulated growth is other than one year, revise the simulations to reflect one year of growth.*

Response: Simulations depicting revegetated portions of the Project site reflect anticipated coverage and appearance at 1-year maturity. See Section 3.13.3.1 of Revised Section 3.13, Visual Resources (Attachment 6), for a revised discussion.

13.1.5 Data Request DR VIS-5

DR VIS-5. *Please provide to the CEC project manager electronic files of stand- alone, high-resolution, KOP existing view and simulation images that are capable of being printed at 11" x 17" with a minimum 600 dots per inch output resolution.*

Response: Stand-alone, high resolution existing conditions and simulation images have been provided to CEC staff with Response Submittal No. 2.

13.1.6 Data Request DR VIS-6

DR VIS-6. *Please provide scaled elevation drawings that identify the heights of buildings, structures, and major equipment including transmission structures.*

Structures and heights should correspond to what has been presented in the visual simulations and Table 3.13-2 in Section 3.13 of the application.

Response: Please see Attachment 16, Civil Plans, for the elevation drawings on Sheets C-1.2 and C-1.3. Table 3.13-2 of Revised Section 3.13, Visual Resources (Attachment 6), has been revised to include additional operations and maintenance components. Visual simulations reflect the color, scale and mass of all included components.

13.1.7 Data Request DR VIS-7

DR VIS-7. *Please provide a calculation of the total pervious surface amount for the project site. Include the surface to be replaced, the new surface, and the total area to be landscaped (or reseeded).*

Response: Refer to the Pervious Area Table on Sheet C-2.0 of Attachment 16, Civil Plans, for the information requested.

13.1.8 Data Request DR VIS-8

DR VIS-8. *Please provide a project-specific, conceptual, outdoor lighting control and management plan, and explain the control of reflectance from exterior surfaces off site that conforms with the city municipal code or county government code. Tie the provision of the outdoor lighting control and management plan to a new mitigation measure and submit for review, the purpose of which is to address the potentially significant visual impact that could occur with uncontrolled night lighting. Staff recommends submitting a revised Section 3.13 of the application due to the amount information that is being requested.*

Response: A Project-specific, Conceptual Outdoor Lighting Control and Management Plan (Attachment 19) has been developed by Coffman Engineers Inc. Please refer to Luminaire Schedule on Sheet E-0.3 and Electrical Site Lighting Plan on Sheet E-1 (Attachment 19). Section 3.13 was revised to include additional impact analysis related to the conceptual outdoor lighting and management plan (Attachment 6).

13.1.9 Data Request DR VIS-9

DR VIS-9. *Please provide a list of the project-specific luminaires; identify the design (e.g., full-cutoff, semi-cutoff, non-cutoff); and indicate if the luminaires have the International Dark-Sky Association Fixture Seal of Approval to the extent feasible consistent with safety and security considerations. Show the project-specific luminaires' locations on a diagram or elevation.*

Response: Please refer to Luminaire Schedule on Sheet E-0.3 and Electrical Site Lighting Plan on Sheet E-1 (Attachment 19).

13.1.10 Data Request DR VIS-10

DR VIS-10. *As specified in the California Code of Regulations, title 20, Appendix B (g)(6)(D)(v)b., please describe project reflectance, and include the intensity of the specular reflectance from the exterior surface of the project's large buildings, structures, and major equipment off site to the surrounding area (e.g., the light reflected from the shiny surface).*

Response: As noted in revised Section 3.13.3.5, Visual Resources, Threshold 3.13c, the finishes of materials used as exterior surfaces included dulled metallic components that are not typically associated with the generation of substantial glare (Attachment 6).

13.1.11 Data Request DR VIS-11

DR VIS-11. *Please provide a table that identifies laws, regulations, ordinances, standards, adopted local, regional, state, and federal land use plans, leases, and permits applicable to the proposed project and discussion of conformance for both construction and operation. Provide reference pages wherein conformance, with each law or standard during both construction and operation is discussed.*

Response: See revised Table 3.13-3 for all applicable laws, regulations, ordinances, standards, adopted local, regional, state, and federal land use plans, leases, and permits (Attachment 6). Revisions include page number references wherein conformance with each applicable law or standard are discussed.

13.1.12 Data Request DR VIS-12

DR VIS-12. *Please identify each agency with jurisdiction to issue applicable permits and/or approvals, but for the exclusive authority of the CEC, pertaining to the required project-specific, conceptual, outdoor lighting control and management plan.*

Response: No agency or has jurisdiction to issue applicable permits and/or approvals pertaining to a Project-specific outdoor lighting control and management plan.

13.1.13 Data Request DR VIS-13

DR VIS-13. *Subsection 3.13.7 of the application suggests that there were no agencies contacted regarding the required project-specific, conceptual, outdoor lighting control and management plan. Please provide the name, title, phone number, address (required), and email address (if known) of each official who will be contacted within each agency and provide the name of the official who will serve as a contact person for CEC staff.*

Response: No agencies were contacted for the preparation of the visual resources evaluation.

13.1.14 Data Request DR VIS-14

DR VIS-14. *Provide a schedule indicating when approval(s) of the project-specific, conceptual, outdoor lighting control and management plan will be obtained and the steps that will be taken to obtain the approval(s).*

Response: No permits specific to the outdoor lighting control and management plan would be required outside of the approval of the CEC, therefore no permits or approvals are scheduled to be obtained.

14 Wildfire

14.1 Data Requests DR FIRE-1 through DR FIRE-2

14.1.1 Data Request DR FIRE-1

DR FIRE-1. *Please add the measures proposed to be implemented as part of MM- FIRE-3 to the mitigation measures in Section 3.17.5.*

Response: MM-FIRE-3 was added to revised Section 3.17.5, Wildfire Analysis (Attachment 20).

14.1.2 Data Request DR FIRE-2

DR FIRE-2. *Please add a discussion of the California requirements in SB 38 for preparing and submitting an emergency response and emergency action plan to the county.*

Response: Please reference the new preliminary Draft Emergency Response Plan per SB38 requirements (Attachment 21). This document will be further updated after the exact battery manufacturer and final construction documents are developed.

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15 Water Resources

15.1 Data Request DR WATER-1 through DR WATER-8

15.1.1 Data Request DR WATER-1

DR WATER-1: *Provide a discussion of how the proposed temporary facilities for water supply and wastewater disposal, to be used as permanent long-term facilities, comply with Alameda County codes and ordinances related to Land Use and Environmental Health.*

Response: The Project's proposed wastewater handling system is defined in Alameda County General Ordinance Code, Chapter 15.18 "Onsite Wastewater Treatment Systems Ordinance" as an Onsite Wastewater Containment Unit (OWCU), which is a "self-contained, non-discharging unit used to collect and store Wastewater for removal, hauling and disposal at an approved septic receiving facility." Onsite Wastewater Treatment Systems (OTWS) and OWCUs are permitted by the Alameda County Department of Environmental Health, for facilities subject to county jurisdiction, where there is not a public sewer available. OWCUs are approved in limited circumstances, including for use at industrial, commercial, or recreational facilities where installation of an OWTS is not feasible or allowed. The Project OWCU meets both criteria as it is an industrial facility, and an OWTS is not feasible due to siting constraints and space limitations.

The Alameda County Department of Environmental Health reviews projects proposing OWTS and OWCU facilities to ensure consistency with the Alameda County Onsite Wastewater Treatment Systems Ordinance and California State Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems (State Policy). The purpose of this ordinance and policy is to establish and ensure that minimum standards are satisfied to prevent health hazards and nuisance conditions and to protect surface and groundwater quality. The Project has submitted a Service Request Application (Attachment 22) to the department to initiate their review of the proposed OWCU. The Service Request Application will allow the Alameda County Department of Environmental Health to complete an initial site review for consistency with applicable codes and ordinances and ensure the OWCU is constructed and operated in conformance with the Alameda County Onsite Wastewater Treatment Systems Ordinance and State Policy through project review and issuance of permits for the life of the Project.

Obtaining and complying with OTWS/OWCU permits will ensure the Project OWCU will not violate surface water or groundwater quality standards (California Environmental Quality Act impact evaluation criteria) and will comply with applicable Alameda County ordinances.

Hauled water is not currently subject to Alameda County codes and ordinances. State laws and regulations related to hauled water is provided in the response to DR WATER-2 below.

15.1.2 Data Request DR WATER-2

DR WATER-2: *Provide information related to state and local laws and regulations for water hauling of water to serve the project. Include contractual agreements or approvals between the water supplier or purveyor, water hauler, and the ultimate site user. Provide well permits and approvals demonstrating that water can be supplied and hauled in compliance with state regulations.*

Response: Hauled water used for hand washing and bathroom facilities throughout Project operations will be provided by a water hauling service. Water hauling estimates have been attached to demonstrate available water supply for the Project (Attachment 23). A contractual agreement with a water hauler is premature at this time due to Project timing and pricing variability, the contractual agreement will be addressed during later stages of Project design and execution.

The intended use of hauled water (fire suppression, hand washing, and sanitary facilities) is not currently subject to Alameda County codes and ordinances. State ordinances potentially applicable to hauled water for these uses are limited to compliance with water rights, however, this does not apply as water will be purchased from a licensed vendor (i.e., Zone 7 Water Agency).

The California Department of Public Health licenses potable water haulers operating in California under California Health and Safety Code (H&SC), Division 104 (Environmental Health). By licensing and enforcing H&SC code requirements with the hauler, the California Department of Public Health ensures that hauled water meets state and federal water quality standards for human consumption. Although hauled water is not intended for human consumption at the Project site, as previously stated, it will meet H&SC water quality standards upon delivery.

15.1.3 Data Request DR WATER-3

DR WATER-3: *Provide the status of all appropriate agencies' approvals for the proposed water supply, a copy of any agency regulations that govern the use of the water, and an explanation of how the project complies with the agencies' regulation(s).*

Response: As described above in the response for DR WATER-2, there are no direct approvals from Alameda County or the State of California that are applicable to water supplied to the Project because water supply would be purchased from a licensed water vendor (likely Zone 7 Water Agency based on proximity to the Project) and delivered to the site by a licensed hauler.

15.1.4 Data Request DR WATER-4

DR WATER-4: *Identify and provide a copy of the will-serve letter, permit or contract with the public or private entity that will be accepting the wastewater generated by the project. Discuss the term of the wastewater service to the project, whether the wastewater entity has adequate permit capacity for the volume of wastewater from the project and has adequate permit levels for the chemical/physical characteristics of the project's wastewater for the life of the project, and any issues or conditions/restrictions the wastewater entity may impose on the project.*

Response: Wastewater services will be provided by a private entity. Wastewater services estimates have been attached to demonstrate available wastewater services for the Project (Attachment 23). A contractual agreement with a wastewater services provider is premature at this time due to Project timing and pricing variability that will be addressed during later stages of Project design and execution. The term of the wastewater service will be for 20 years, the same as our facility operations, with the possibility of extensions.

The wastewater provider hold licenses from the California State Licensing Board to provide wastewater service, install/construct an Onsite Wastewater System in the State of California. These licenses are listed as Class A – Engineering Contractor, B – General Building Contractor, C-36 – Plumbing Contractor and C-42 – Sanitation System Contractor.

15.1.5 Data Request DR WATER-5

DR WATER-5: *Provide descriptions of all significant assumptions, methodologies, and computational methods used, including those specifically related to calculations or other computations requested within this section.*

Response:

Fire Water Storage Tank

The developer will provide a minimum of 30,000 gallons of non-pressurized on-site water storage for firefighting purposes. This will consist of an aboveground tank connected to a fire hydrant immediately adjacent to the tank.

The fire code is not prescriptive on water supply storage quantity for Energy Storage System sites. Since these sites consist of metal enclosures located within a gravel yard, large qualities of water for firefighting is not required. The most probable fire would be associated with a service vehicle catching fire.

CFC Section 507.1 requires that an approved water supply be provided for “facilities”. The definition for facilities includes “storage lots” which could be applied to an ESS site. CFC Section 507.3 and Appendix B103.3 “Areas Without Water Supply Systems” directs one to NFPA 1142 (Standard on Water Supplies for Suburban and Rural Firefighting). This is similar to NFPA 855-2023 Sections 9.6.3 and 4.9.4, which also recommend NFPA 1142.

NFPA 1142 provides volume-based calculations which are based upon larger structural fires. However, the volume-based calculation is less applicable when the volume of a single enclosure is typically in the 1,300 cubic feet range and the resulting fire-water storage quantity is less than 800 gallons.

The developer has chosen to provide a "Recognized Water Supply" per NFPA 1142 Section 3.3.23, which is defined as a flow rate of 250 gpm for 2-hours or 30,000 gallons. To provide an additional level of safety, separate 30,000 gallon fire-water tank will be provided at each entrance for a total on-site fire-water storage capacity of 60,000 gallons.

Water Storage Tank

The developer will provide an additional 10,000 gallons of on-site water storage for sinks, flush toilets, and other O&M facilities. This will consist of an aboveground tank in close proximity to the northern-most O&M building (see Site Plan in Attachment 16).

Given that local code is not prescriptive on water supply storage quantity for Energy Storage System sites, assumptions from past projects were also utilized. Current site specifications will require that the amount of water storage capacity meet, at minimum, the storage capacity of the OWCU.

Wastewater Holding Tanks

Based on Alameda County's Onsite Wastewater Treatment Systems Manual[4] any wastewater holding tanks shall:

- Have a minimum liquid capacity of 1,500 gallons
- Be sized to accommodate a minimum of 200% of the wastewater design flow between anticipated pumping events in accordance with the county's sizing formula

Via the above requirements, the Project will utilize two belowground 5,000 gallon wastewater holding tanks (10,000 gallons total). It is estimated that the tanks will be pumped out every approximately 22 workdays and can accommodate 25 gallons/employee/day. Based on the final workforce and usage estimates, the number of pumping events will be optimized. As described in the above, County coordination regarding water and wastewater tank sizing is ongoing.

15.1.6 Data Request DR WATER-6

DR WATER-6. *Please provide the following standard permit registration documents:*

a. Notice of Intent to request coverage under the Construction General Permit (CGP), including a Risk Level Determination, submitted through the State Water Board Stormwater Multiple Application and Report Tracking System (SMARTS) and provide confirmation of the date submitted to the CEC;

b. Site Drawings and maps of areas requiring CGP coverage;

[4] Alameda County Department of Environmental Health. 2018. *Onsite Wastewater Treatment Systems Manual*. June 2018. https://deh.acgov.org/landwater-assets/docs/OWTS-Manual.pdf.

c. *Construction Stormwater Pollution Prevention Plan (SWPPP) developed by a Qualified SWPPP Developer (QSD) or modifications to the Erosion and Sediment Control Plan, Potentia-Viridi Battery Energy Storage Project, Alameda County, California, July 2024, to conform to the requirements of the Construction General Permit*

Response: It is noted that these standard permit registration documents would be required. A SWPPP will be completed prior to ground disturbance and coverage under the CGP would also be obtained at that time.

15.1.7 Data Request DR WATER-7

DR WATER-7. *Provide a complete Section 401 Water Quality Certification application for certification. The following link includes the application materials and guidance documents regarding information needed for a complete application.*

(https://www.waterboards.ca.gov/water_issues/programs/cwa401/#resources).

Please include the following:

a. *An aquatic resource delineation report verified by U.S. Army Corps of Engineers, if verification is required by the Corps;*
b. *A description of the waters proposed to be impacted by the project including the quantity of impacts to waters proposed to receive a discharge of dredged or fill material at each location rounded to at least the nearest one-hundredth (0.01) of an acre and nearest linear foot, and cubic yards of fill.*

Response: The application for Water Quality Certification was submitted to the Central Valley Regional Water Quality Control Board on August 8, 2024. The application has been assigned to Jenna Yang. Ms. Yang made a request for the Applicant to provide a compensatory mitigation plan on September 9, 2024. That request is currently being negotiated with a mitigation provider. The Section 401 application process is on-going.

The Project application previously included a delineation map of regulated waters, as well as the corresponding data sheets. This information was also provided to USACE in the application for a Nationwide permit (DR BIO–79). The USACE has not provided a verification letter, however USACE is not required to issue a verification letter in order to issue a Nationwide Permit, and we do not expect USACE to require verification as the site does not contain complex jurisdiction (contains a single jurisdictional feature).

15.1.8 Data Request DR WATER-8

DR WATER-8. *Include copies of any correspondence along with meeting notes with regulatory agencies regarding permitting issues or other relevant topics and include the name of officials contacted within each agency.*

Response: Table 9 shows the agencies and individuals that have been contacted and the correspondence is included in Attachment 24.

Table 9. Agencies and Individuals Contacted for Water Topics

Agency Name	Contact	Email	Phone Number	Website
Zone 7 Water Agency	Junming Li	jli@zone7water.com	925.454.5017	Zone 7 Water Agency - the Tri-Valley region's water wholesaler
City of Tracy Operations and Utilities Department	Robin Kloepfer Management Analyst	waterresources@cityoftracy.org	209.831.6366	—
City of Tracy	Kat Balogh Engineering Technician II	kat.balogh@cityoftracy.org	209.831.6458	—
City of Livermore Engineering Division Community Development Department	Fan Yu	fyu@LivermoreCA.gov	925.960.4549	www.LivermoreCA.gov
City of Livermore Water Resources Division Public Works Department	David Lennier	dblennier@LivermoreCA.gov	925.960.8138	www.LivermoreCA.gov
City of Pleasanton	Engineer on Duty Public Works Department, Engineering Division	EOD@cityofpleasantonca.gov	925.437.4005	—
Building Inspection Department Alameda County Public Works	Samuel Tan, P.E.	Samuelt@acpwa.org	510.670.5557	www.acpwa.org
Building Inspection Division Alameda County Public Works Agency	Janet Li	WanL@acpwa.org	510.670.5440	www.acpwa.org
Building Inspection Division Alameda County Public Works Agency	Rebecca Lee	rebeccal@acpwa.org	510.670.5440	www.acpwa.org

Table 9. Agencies and Individuals Contacted for Water Topics

Agency Name	Contact	Email	Phone Number	Website
Environmental Health Department Alameda County Health	Natali Colom Cruz	natali.colom@acgov.org	510.567.6723	Health.AlamedaCountyCA.gov/ACEHD

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16 Worker Safety

16.1 Data Request DR WS-1 through DR WS-5

16.1.1 Data Request DR WS-1

DR WS-1. *Please include a discussion of the implementation of California Code of Regulations, Title 8, section 3395 Heat Illness Prevention in Outside Places of Employment. Furthermore, add all other applicable California Code of Regulations, Title 8, requirements for construction and operation.*

Response: Please see Revised Section 3.16, Worker Health and Safety, for a discussion of how Title 8 would be implemented (Attachment 25). Table 3.16-5, Laws, Ordinances, Regulations, and Standards, of that section specifically details how Title 8, CCR, Section 3395 is applicable to the Project.

16.1.2 Data Request DR WS-2

DR WS-2. *Please provide more details related to the BESS fire prevention, detection, and suppression systems considered for installation. Provide details on how the interior of a BESS enclosure would be cooled after a fire event. Provide information on the leak detection equipment for the BESS and detection and venting equipment for hydrogen gas. Provide more information related to fire suppression systems for the overall facility including the location of hydrants and when traditional water fire suppression would be used vs other methods (e.g. aerosol system).*

Response: Please see the Fire Protection Technical Assistance Report (Attachment 11) for details on how a thermal runaway event would be handled. In addition, a Fire Master Plan has been prepared for the Project and is included as Attachment 26.

16.1.3 Data Request DR WS-3

DR-WS-3. *As required by NFPA 855, please add a discussion of the BESS hazard mitigation analysis to be prepared in compliance with UL 9540A. The hazard mitigation analysis shall include consideration of potential thermal runaway fault conditions occurring within a single battery storage rack, cell module or cell array (i.e., cell level, module level, unit level and installation level). The analysis shall include mitigation measures to prevent flammable gases released during fire, battery overcharging, and other abnormal operating conditions within the BESS from creating an explosion hazard that could injure workers or emergency first responders.*

Response: Please see the Fire Protection Technical Assistance Report (Attachment 11) for details on how a thermal runaway event would be handled. In addition, a Fire Master Plan has been prepared for the Project and is included as Attachment 26.

16.1.4 Data Request DR WS-4

DR WS-4. *Please provide the missing names and titles of contacts found in Table 3.16-6.*

Response: Please see revised Table 3.16-6 within revised Section 3.16, Worker Health and Safety (Attachment 25).

16.1.5 Data Request DR WS-5

DR WS-5. *Please list applicable CalOSHA permits and corresponding schedule information.*

Response: See Table 3.16-5, Laws, Ordinances, Regulations, and Standards, of revised Section 3.16, Worker Health and Safety, which specifically details the applicability of CalOSHA permits for the Project.

Attachment 1

CONFIDENTIAL Revised Socioeconomic Analysis

Attachment 2

Revised Section 3.10, Socioeconomics

Attachment 3

Air Quality and Greenhouse Gas Emissions
Technical Report

Attachment 4

Revised Section 3.1, Air Quality

Attachment 5

BAAQMD Correspondence

Attachment 6

Revised Section 3.13, Visual Resources

Attachment 7

Revised Section 2, Project Description

Attachment 8

Updated Surrounding Ownership Information

Attachment 9

Soil Sampling and Analysis Plan

Attachment 10

Revised Section 3.5, Hazards

Attachment 11

Fire Protection Technical Assistance Report

Attachment 12

Supporting Williamson Act Information

Attachment 13

Revised Noise Report

Attachment 14

Revised Section 3.7, Noise

Attachment 15

Lease Area and Surrounding Features

Attachment 16

Civil Plans

Attachment 17

Revised Section 3.9, Public Health

Attachment 18
Overhead Utility Lines

Attachment 19

Conceptual Outdoor Lighting Control and Management Plan

Attachment 20

Revised Section 3.17, Wildfire

Attachment 21

Draft Emergency Response Plan

Attachment 22

Service Request Application

Attachment 23

Water and Wastewater Service Estimates

Attachment 24

Correspondence on Water Topics

Attachment 25

Revised Section 3.16, Worker Health and Safety

Attachment 26

Fire Master Plan