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Comment Received From: Ada E. MÃ¡rquez
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Tanager BESS Request for Staff Review of the Revised Project

Additional submitted attachment is included below.

October 31, 2026

California Energy Commission Staff
Los Esteros Phase II Compliance
Docket 03-AFC-02C

Tanager BESS questions for environmental review

Re: TN 273229 and the evidence supporting the proposed amendment

Dear CEC Staff:

Data Response Set 6B (TN 273229) updates the Tanager battery energy storage system (BESS) project description to 800 megawatt-hours (MWh), down from 1,600 MWh, while retaining a nominal 200-megawatt (MW) power rating. It also retains language allowing technology selection during detailed design after petition approval (Los Esteros Critical Energy Facility, LLC [LECEF], 2026, project description). Building on my petition (TN 271563) and follow-up comments (TN 272278), I request clarity on the authorized equipment and supporting analysis before CEC's decision.

Staff's independent evaluation. This request seeks CEC staff's written evaluation and understandable findings, not merely additional raw technical files for the public to interpret. Please summarize the analysis reviewed, its applicability to the revised project, material uncertainties, predicted effects at sensitive receptors, and required protections. Identify any outstanding work and explain how it will be resolved before staff recommends action.

The reduction is in energy-storage capacity, not MW. A smaller inventory may reduce some effects, but it does not establish the consequences of a particular failure or the effectiveness of the proposed controls. Equipment, configuration, and operating assumptions remain important. Pacific Northwest National Laboratory emphasizes that a BESS project's impacts depend on its specific components and configuration (Twitchell et al., 2023, p. 10).

The amendment rule requires a complete description of the proposed change, analysis of environmental effects and mitigation, evaluation of compliance with applicable requirements, and discussion of effects on residents and the public (Cal. Code Regs., tit. 20, § 1769(a)(1)(A), (D)–(F), (H)). The certified-program framework also requires a description of the activity and documentation addressing its environmental effects (Cal. Code Regs., tit. 14, § 15252(a)).

Design flexibility can be compatible with meaningful environmental review where the project description and binding standards adequately define the project being analyzed (Citizens for a Sustainable Treasure Island v. City and County of San Francisco, 2014). My concern is whether unresolved choices could change the impacts being evaluated. I request staff's findings on the following five issues, supported by docket and page references.

1: Define the equipment and connect it to the evidence

a. The draft Hazard Mitigation Analysis (HMA; TN 272997) identifies Hithium Infinity Block Generation 2 equipment, references testing of a Hithium LC083502 system, and anticipates completing an HMA after approval and design finalization (Draft BESS hazard mitigation analysis, 2026, §§ 1.0–1.1, 4.1). Please reconcile these descriptions and identify which equipment characteristics are fixed, which remain open, and the limits on permitted alternatives.

One public reconciliation table

b. Please provide a single table reflecting staff's review, organized by equipment component or permitted configuration, connecting the following five elements. Include document, test-report, and model-input references so the public can follow the evidence supporting each finding.

Element	Information requested
Proposed equipment	Chemistry, cell and enclosure configuration, maximum inventory, spacing, and relied-upon safety systems; identify permitted alternatives.
Representative testing	Tested equipment, report and standard edition, test conditions, and the basis for applying the results to the proposed installation.
Modeling assumptions	Chemical-specific release rates and durations, propagation assumptions, source characteristics, and sensitive receptors.
Impact findings	Predicted effects, health benchmarks and exposure periods, uncertainty, and the basis for significance conclusions.
Enforceable conditions	Binding limits, verification before construction or operation, responsible reviewers, and the process for later substitutions.

Please explain how final equipment will be verified against these limits. If a substitution falls outside the analyzed configuration, identify what additional environmental review, approval, and public disclosure would occur. Distinguish later engineering verification from any investigation still needed to support an environmental finding before approval.

2: Demonstrate the basis for offsite public health findings (for the revised project)

- **a. Applicability of the existing analysis to the revised project.** Data Response Set 6B (TN 273229) revises the project description, including reducing storage capacity from 1,600 to 800 MWh while retaining 200 MW. Please explain whether the existing AERMOD analysis and technical supporting materials (TN 272160 and TN 272161) remain representative of the revised project and permitted equipment configurations. Identify which assumptions have changed, whether updated emissions calculations, modeling, or other supporting analysis are needed, and why. If staff concludes that the existing analysis remains adequate or conservative, please document the technical basis and supporting evidence.
- **b.** The HMA (TN 272997) draws favorable exposure conclusions from observed testing (Draft BESS hazard mitigation analysis, 2026, §§ 4.1–4.3). Please identify the chemicals measured, detection limits, sampling locations, and test conditions. Explain how those results support conclusions about releases outside the enclosure and exposure in surrounding communities.
- **c.** Larsson et al. (2017) found substantial variation in fluoride emissions among tested battery types and conditions, including lithium iron phosphate (LFP) cells. Their findings support scrutiny of emission assumptions; they are not a universal emission factor for Hithium equipment. Please explain staff's evaluation of the project's chemical-specific release quantities and rates, event durations, propagation assumptions, and credited containment or treatment, linked to the AERMOD archive (TN 272160) and emission-factor memorandum (TN 272161), as requested in TN 272278, §§ II–IV.

Receptors and health benchmarks (for the revised project)

- **d.** Consistent with my prior comments (TN 272278, § IV; staff requests A65–A68 and A70, TN 269329), please report predicted concentrations and health-effect findings for Alviso residences, George Mayne Elementary School, and other sensitive receptors, alongside the maximum modeled results. Identify the scenarios, meteorology, and exposure periods supporting those results. Explain how the analysis addresses uncertainty and plausible failure of protective systems, including the basis for any assumption that an incident remains confined to one unit. Distinguish accidental-release findings from any construction or operational health-risk assessment.

e. For each chemical, identify the benchmark, exposure duration, and health endpoint. Explain whether acute Reference Exposure Levels (RELs) from the Office of Environmental Health Hazard Assessment (OEHHA) and target-organ hazard indices were evaluated, as requested in A66–A67 (TN 269329). If Acute Exposure Guideline Levels (AEGLs) or other criteria are used instead, explain the technical and legal basis for that approach and the effects the selected levels address. EPA describes AEGLs as guidance for rare accidental releases, with levels corresponding to different severities of effects; California acute RELs address one-hour exposures, including sensitive groups (U.S. Environmental Protection Agency, n.d.; Office of Environmental Health Hazard Assessment, n.d.). Please explain the applicable approach rather than assume these benchmarks are interchangeable.

3: Show that emergency protections are feasible and enforceable

a. A safety study commissioned by the California Public Utilities Commission distinguishes component failures, interacting system failures, and residual risk, and emphasizes site-specific expertise beyond general standards. It identifies exposure, runoff, evacuation, and shelter-in-place among potential consequences (Lumen Energy Strategy, 2023, pp. F-6, F-24). Compliance with a product or installation standard should therefore be accompanied by an explanation of the protection it provides under the scenarios evaluated.

b. For the protections described in the HMA (TN 272997) and project description (TN 273229), please identify supporting analysis and conditions for:

- Emergency access and protective actions: Available routes, notification timing, evacuation or shelter-in-place assumptions, responder coordination, and the effects of loss of normal access or safety controls.
- Firewater and drainage: Required water supply and duration, shared resources with the operating power plant, containment of contaminated runoff, and isolation from the existing stormwater system.
- Verification: Confirmation that delivered equipment and installed safety systems meet the analyzed configuration and required performance before operation, with monitoring and corrective-action responsibilities.

c. The Dixon Fire Protection District Board (2026; TN 272699, Corby docket 24-OPT-05) raised similar questions about consequence analysis, sensitive receptors, and evacuation. Its letter illustrates agency concerns at another project rather than establishing a deficiency at Tanager. Please identify the corresponding evaluation for Tanager and explain how any remaining risk will be managed.

4: Account for the full footprint and replacement mitigation

a. Data Response Set 6B (TN 273229) acknowledges removal of portions of the berm, trees, and landscaping previously required to mitigate LECEF impacts (LECEF, 2026). Please identify each affected certification condition, its original purpose, the protection being lost, and the enforceable replacement or other basis for concluding that the original impact remains adequately addressed.

b. Please provide a current map and accounting of permanent and temporary disturbance, including equipment, foundations, transmission facilities, roads, staging, drainage, and vegetation removal. Identify the biological surveys and consultation supporting the complete footprint, and whether updated review is needed for burrowing owls, nesting birds, or wetland, riparian, and stream resources in affected areas.

c. Given reported golden eagle observations in Alviso, please provide current information on foraging, movement, and any nesting activity in the project's area of influence. Please evaluate habitat loss, construction and operational disturbance, and transmission-line collision or electrocution risks, and identify needed surveys, consultation, and enforceable protections. This request does not presume a nest at the project site.

d. The California Department of Fish and Wildlife's (CDFW) Potentia-Viridi comments illustrate the importance of reconciling habitat-impact calculations, overlapping mitigation, and explicit species protections (California Department of Fish and Wildlife, 2026, TN 269326, comments 1–4; docket 24-OPT-04). For Tanager, please show how replacement measures address the affected habitat or mitigation function, justify overlapping credit, and specify timing, measurable success criteria, monitoring, and corrective actions. Another project's mitigation ratios are not presumed applicable here.

5: Transparency and staff response

Alviso residents should be able to understand the evidence supporting public-health and environmental findings without reconstructing the project from scattered filings.

a. Please explain how the assessment considers existing environmental burdens and sensitive populations. Moreover, how will emergency communications and protective actions reach residents with limited English proficiency, disabilities, or limited transportation?

The Bay Area Air District's draft enforcement policy emphasizes transparency, protection of communities facing cumulative pollution burdens, and accountability for enforcement outcomes (Bay Area Air District, Office of the General Counsel, 2026, pp. 1–2). This remains a draft addressing Air District enforcement.

b. For Tanager, please identify which agency will verify compliance with each condition, how compliance will be reported publicly, and what corrective action will follow if required protections are not maintained.
c. Please docket staff's written assessment, the reconciliation table, proposed conditions, and responses to these issues with sufficient time for public review before a decision. Provide a summary in clear, nontechnical language and identify the assessment schedule, comment opportunities, and approval pathway. The certified-program framework calls for reasonable public review and written responses to significant environmental points in the agency's final action (Cal. Pub. Res. Code § 21080.5(d)(2)(D), (F), (3)).

I understand that the disclosure decision in TN 271892 concerned the technical memorandum and supporting AERMOD files. My follow-up comments (TN 272278) requested clarification concerning additional supporting records.

d. Please identify which requests require a separate disclosure procedure and, independently, provide the nonconfidential assumptions, calculations, and findings needed to understand and evaluate the environmental analysis.

Thank you for addressing these specific requests and providing transparency. Staff's explanation of how the authorized project, supporting evidence, and enforceable protections fit together would strengthen the assessment and the community's ability to understand the CEC's decision.

Sincerely,
Ada E. Márquez

References

Bay Area Air District, Office of the General Counsel. (2026, September). *Policy on legal action to enforce violations of Air District regulations* [Draft for public review and comment].

California Code of Regulations, title 14, § 15252. (n.d.). Substitute document.

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California Department of Fish and Wildlife. (2026, March 25). *Potentia-Viridi Battery Energy Storage System Project comments on the draft environmental impact report* [TN 269326; docket 24-OPT-04; docketed March 26, 2026].

California Energy Commission. (2026, March 26). *Staff's data request set 3, A64 through A81: Los Esteros Tanager BESS Project* [TN 269329; docket 03-AFC-02C].

California Energy Commission, Office of Chief Counsel. (2026, August 7). *Decision on petition to inspect confidential records* [TN 271892; docket 03-AFC-02C; docketed August 10, 2026].

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Los Esteros Critical Energy Facility, LLC. (2026, October 27). *Tanager Battery Energy Storage System Project: Data response set 6B* [TN 273229; docket 03-AFC-02C].

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Márquez, A. E. (2026, July 17). *Petition for inspection or copying of confidential records and request for clarification: TN 271506, TN 271053, and TN 271503* [TN 271563; docket 03-AFC-02C; docketed July 20, 2026].

Márquez, A. E. (2026, August 31). *Follow-up on petition to inspect confidential records and request to complete public disclosure of the Tanager BESS air-quality and health-risk record* [TN 272278; docket 03-AFC-02C; docketed September 1, 2026].

Office of Environmental Health Hazard Assessment. (n.d.). *Toxicity criteria database data dictionary* [Reference exposure levels definitions]. California Open Data Portal.

Ramboll. (2026, June 16). *Emission factors for select compounds formed from thermal runaway and fires from LFP batteries* [Attachment DR-A65 technical memorandum; TN 272161; docket 03-AFC-02C; docketed August 24, 2026].

Twitchell, J. B., Powell, D. W., & Paiss, M. D. (2023, October). *Energy storage in local zoning ordinances* (PNNL-34462). Pacific Northwest National Laboratory.

U.S. Environmental Protection Agency. (n.d.). *About Acute Exposure Guideline Levels (AEGLs)*.