REGION 9 ADMINISTRATOR
SAN FRANCISCO, CA 94105

June 30, 2025

The Honorable Chris Lopez
Board of Supervisors
County of Monterey
168 W. Alisal Street, 1st Floor
Salinas, California 93901

Dear Supervisor Lopez:

Thank you for your May 20, 2025, correspondence regarding the environmental response to the January 2025 fire at the 300 Mega-Watt Battery Energy Storage System operated by Vistra Corp. in Moss Landing, California. The U.S. Environmental Protection Agency appreciates your support for its continued oversight of the battery modules removal from the Vistra facility. The EPA understands that you have been responding to public concerns related to the site, and agrees that urgency, transparency, and robust intergovernmental coordination are vital for an effective response.

The EPA is working diligently and collaboratively with the County of Monterey, led by its Environmental Health Bureau (EHB), as well as the State of California, led by the California Environmental Protection Agency (CalEPA), to address the situation at Moss Landing.

The EPA initially deployed to the site late in the evening on January 16, 2025, when local first responders requested the EPA's assistance with air monitoring. From that date until January 20, the EPA provided technical assistance with perimeter air monitoring during the initial fire.

Following the January fire, the EPA's role has been to conduct oversight of Vistra as it plans for and performs on-site activities to remove, process, and dispose of battery modules that were impacted by the fire and pose a risk of reignition.

To address the immediate risk of a flare-up at the facility, the EPA issued a Notice of Federal Response Action (NFRA) on January 22. The NFRA notified Vistra that the EPA views Vistra as a potentially responsible party under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The NFRA was not in itself a legally enforceable agreement or order under federal law, however, it outlined the response actions that the EPA deemed necessary for an appropriate response.

Vistra confirmed to the EPA its intent to conduct the response voluntarily and began undertaking the actions outlined in the NFRA. The NFRA also indicated that Vistra should coordinate with the county on

ash and debris sampling in the community, pending the issuance of the county's own directive. Since then, Vistra has been coordinating community sampling efforts with the county.

On February 18, CalEPA, on behalf of the state, formally requested assistance from the EPA in overseeing on-site battery modules removal. The EHB, CalEPA, and the EPA agreed that the EPA will have primary oversight of on-site activities associated with the battery modules removal at the facility, including preventing additional fire incidents from occuring. It was also agreed that the county will retain primary oversight of off-site and community activities assessing any impacts outside the facility, with support from the state.

Accordingly, the EPA invited Vistra to negotiate an enforceable agreement under which Vistra would conduct and pay for on-site battery modules removal under EPA oversight. The EPA is in the process of finalizing such an enforcement agreement with Vistra.

As this agreement is being finalized, Vistra has been conducting on-site battery modules removal voluntarily, with guidance from the EPA. With oversight from EPA emergency response experts (on-scene coordinators), Vistra has made critical advances in the battery removal work at the site, including planning to ensure the safe decommissioning of the damaged battery modules from the facility, taking steps to reduce the risk of battery modules' re-ignition during the removal activities, and removing and disposing of materials from the site. CalEPA and the county are leading all activities outside of the footprint of the Moss Landing complex.

The county, CalEPA, and the EPA, along with Vistra, participate in a weekly unified coordination call to share information on planned and ongoing response activities. The EPA shares updates on its oversight activities and ongoing on-site actions during these weekly calls. The County of Monterey and the EPA also participate in a Joint Information Center (JIC), which includes representatives from Vistra and Santa Cruz and San Benito counties, to coordinate on public communications regarding the site. The EPA has invited CalEPA to participate in the JIC meetings to enhance coordination on public engagement.

The specific requests to the EPA included in your letter are addressed below:

1. **Maintain and communicate a clear timeline of CERCLA-related activities and site actions.**

The EPA, in coordination with the JIC, is developing a website that will clearly communicate the EPA's plans for the response and status of on-site activities. The EPA expects to publish the forthcoming enforcement agreement with Vistra on its website once finalized. The enforcement agreement will be accompanied by a public administrative record that includes documents supporting the EPA's use of its CERCLA authorities.

2. **Establish a coordinated pathway with the county's departments to share data, clarify technical roles, and ensure alignment with local public health goals.**

The EPA, Vistra, the county, and the state have successfully coordinated data sharing activities through the unified coordination call and data have been provided to the county as requested.

Under the proposed enforcement agreement, Vistra will be required to make any data obtained as part of its compliance available to the EPA. The future agreement also will obligate Vistra to retain records of data generated under the agreement and to provide such records to the state upon its request. The sharing of such data with the county would be at the state's discretion and subject to potential confidentiality considerations.

To clarify technical roles, the state's request for federal assistance was limited to overseeing on-site activities associated with battery removal. The EPA's role will be limited to this scope. After the battery modules have been removed, the EPA will transition oversight to state and local authorities for any remaining cleanup or removal activities unrelated to the battery modules removal. Any activities outside of the Vistra facility and unrelated to the battery removal are being conducted by the county and state.

In addition, the EPA is committed to mitigating potential environmental impacts to the community from the on-site battery removal. During the removal action, the EPA will comply to the extent practicable with requirements of state environmental and federal facility siting laws. CalEPA has provided a preliminary list of these requirements, which the EPA is reviewing. Under the forthcoming EPA-Vistra enforcement agreement, these requirements would be incorporated into Vistra's work plans.

3. **Facilitate collaboration with the county's community sampling plan to provide residents with trusted, accessible environmental data.**

The county and state are leading activities taking place outside the fenceline of the Vistra facility, including community sampling. As explained above, the EPA referenced the community sampling efforts being led by the county in the EPA's January NFRA to orient Vistra to coordinate with the county on such sampling. Assisting the county with Vistra's community sampling plan is part of the California Governor's Office of Emergency Services' mission task to CalEPA. CalEPA's agencies are, and have been, assisting the county with the plan and the off-site sampling activities in general.

4. **Identify and support opportunities for Monterey County to benefit from CERCLA-authorized resources, technical assistance, and funding mechanisms that will bolster local health and environmental programs while protecting public infrastructure.**

It is important to note that, given the scope of the EPA's role and the extent of its CERCLA authority, it would be inappropriate for the EPA to direct funds for activities outside of the Vistra facility or on-site activities not directly related to the battery removal. The use of funds from the United States' trust fund established under CERCLA is limited to covering the EPA's oversight costs for overseeing the response, pending reimbursement from Vistra.

5. **Assist in hosting public engagement opportunities with the county's leadership to keep residents informed and engaged throughout the response and recovery process.**

Under the agreement the EPA is currently negotiating, Vistra would prepare a community involvement plan which sets forth a site-specific strategy for community involvement during the removal action. The EPA has engaged its team of community involvement coordinators to conduct community

interviews to help inform this plan. Vistra's community involvement plan would be subject to the EPA's review and approval. The approved community involvement plan may highlight opportunities for future collaboration on public engagement, which can be communicated through the JIC and the EPA's website.

The EPA looks forward to continuing its collaborative relationship with its county and state partners on an effective response to the Moss Landing fire. If you have further questions about this matter, please contact me at Cook.Josh@epa.gov. Please also feel free to refer your staff to our Intergovernmental Liaison, Matt Schumacher, at 415-407-1254 or via email at Schumacher.Matt@epa.gov.

Sincerely,

Josh F.W. Cook

cc: Kelsey Scanlon
Director, Department of Emergency Management, County of Monterey