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Docket Number:	20-LITHIUM-01
Project Title:	Lithium Valley Commission
TN #:	247076
Document Title:	US EPA Region 9 comments on the Draft Report of the Blue Ribbon Commission on Lithium Extraction in California
Description:	N/A
Filer:	System
Organization:	U.S. Environmental Protection Agency, Region 9
Submitter Role:	Public Agency
Submission Date:	10/28/2022 10:18:41 AM
Docketed Date:	10/28/2022

*Comment Received From: U.S. Environmental Protection Agency, Region 9
Submitted On: 10/28/2022
Docket Number: 20-LITHIUM-01*

**EPA's comments on the Draft Report of the Blue Ribbon
Commission on Lithium Extraction in California**

Additional submitted attachment is included below.

California Assembly Bill 1657, which provides the State authority for the Blue Ribbon Commission on Lithium Extraction in California requires the Commission to consult, if feasible, with the United States Environmental Protection Agency and the United States Department of Energy. At the invitation of the Commission, the Environmental Protection Agency Region 9 has coordinated with the Commission periodically since its inception. At this time, we do not foresee any permitting actions for the EPA, although we maintain oversight for aspects of State air quality and water quality programs, including permitting which may be needed for projects developed under activities considered for the area. We reviewed the September 2022 Draft Report and offer the following for your consideration.

Jurisdictional Waters of the U.S.

The EPA has jurisdiction and expertise for Clean Water Act Section 404 Permits, if needed from the U.S. Army Corps of Engineers. The EPA would have a role in commenting to the Corps on Section 404 Permits' Public Notices.

Activities envisioned in the Draft Report have the potential to affect large areas of waters of the U.S. in and around the Salton Sea lakebed. We agree with statements in the draft report that direct lithium extraction has, conceptually, far less impact to surface resources as compared with the other primary mining methods for producing lithium; however, a regional approach to mitigation may offer additional opportunities for protection of human health and the environment, as well as for project proponents, when activities have unavoidable impacts to jurisdictional waters of the U.S. First and foremost, project proponents should seek to avoid and minimize impacts to waters of the U.S. We recommend that the Commission maximizes opportunities for successful advance mitigation, including identifying potential mitigation sites complementary to existing mitigation projects and other mitigation planning underway, such as under the State's Salton Sea Management Program.

Environmental Justice

The EPA has jurisdiction and expertise for environmental justice, and health impacts to communities with environmental justice concerns in the Salton Sea area are a long-standing interest of Region 9. We are encouraged by the following aspects of the Draft Report:

- Requirements for health impact assessments to inform decision-making
- Community and tribal representation on the commission
- Funding for community-based organizations
- Support for the improvement of local infrastructure and housing
- Inclusion of opportunities for community participatory budgeting
- Provision of local opportunities for education/STEM/workforce development

- Attempts to address language and technology barriers of communities that would be affected by the project

Given that the activities considered could result in significant impacts – both beneficial and adverse – to communities that face existing environmental and health burdens, as well as social vulnerabilities, we recommend that the Commission be resolute in its commitment to carefully and thoughtfully evaluating and addressing community and tribal concerns and priorities throughout the planning, implementation, and monitoring/evaluation process.

We recommend considering the following:

- In addition to the broader climate change goals of the project that would benefit the general population, we recommend addressing local climate change impacts and advancing climate justice, such as through the provision of resilience hubs or cooling centers for the public as well as mitigating climate change impacts on workers and considering potential Personal Protective Equipment (PPE).
- Assess any local energy access needs and evaluating whether those needs can be met with surplus energy produced by the project at an affordable price.
- Support the development of affordable housing for local residents.
- Expedite the creation of educational and local workforce development opportunities to ensure that local residents have the tools and resources needed to compete for jobs created by the project from the initial phases of the planning and implementation. To provide more equitable access to educational and employment opportunities, consider offering scholarships for students in need.
- Strive to ensure that economic benefits are directed to local and tribal communities and pursue measures to prevent gentrification effects.
- Consider supporting the expansion of solar energy production and other renewable energy to complement geothermal energy production.
- Share more information on community meetings, for example types of participants and how many.
- Ensure that community members and tribes are meaningfully engaged in planning and implementation of project HIAs. Use the findings of the HIAs to inform the project and decisionmaking to the fullest extent feasible. For information on HIAs, including guidance on conducting HIA's, see [EPA's HIA website](#) and [HIA Resource and Tool Compilation](#).
- Consider creating tribal set-asides for grant funding to help reduce barriers to accessing funding that tribes have historically faced.
- Create robust and equitable emergency response plans, ensuring that such plans address the needs of persons with disabilities.
- Continue to pursue robust meaningful engagement practices throughout planning and implementation of the project, including:

- Forming a Community Advisory Committee (CAC) to provide for meaningful participation in the decision-making process throughout planning, implementation, and monitoring/evaluation phases, if desired by community members.
- Engaging communities as early as possible and frequently to ensure ample time to collect and incorporate community feedback into project planning, design, and implementation.
- Addressing translation and interpretation needs for linguistically isolated populations.
- Addressing technology barriers. For example, continue to offer in-person meetings at convenient and accessible locations to residents to ensure that those lacking broadband and/or computer access can participate in the project planning process.
- Addressing accessibility needs to ensure that persons with disabilities are meaningfully engaged.
- Designing meetings in a way to maximize community participation. For example:
 - Ensure that meetings are scheduled at a time and place that makes sense for community participants, including scheduling meetings after hours and on weekends to accommodate participants' work schedules.
 - Promote community meetings within local community forums, share with existing relevant groups, via social media, and other appropriate outlets used by communities.
 - Provide ample notice of meetings and commenting opportunities so that community members have sufficient time to prepare to participate.
 - Provide childcare services as appropriate to increase participation.
 - Ensure that all project-related information and updates are conveyed using plain language, including pictorial content where appropriate, so that community members of varied reading proficiencies can readily understand the project and its potential impacts.
- Provide technical assistance to communities to support them in understanding the project, its impacts, and the environmental review process.
- Use culturally relevant graphics/images and public service announcements to inform and educate.
- Consider strengthening engagement with youth and children, through family friendly events that inform and educate community.
- Consider inflation when providing set dollar amounts for set aside funds or community supporting activities.
- Provide transparent process of tracking and sharing information on hazardous wastes, if any, during the lithium extraction and energy production, and when the facilities are closed in the future.

Joint CEQA-NEPA programmatic Environmental Impact Analysis

The Draft Report describes the Commission's intention, and funding, for Imperial County to develop a *Lithium Valley Specific Plan* and Programmatic Environmental Impact Report under the California Environmental Quality Act. Since there are several potential federal actions which may be required for concepts discussed in the Draft Report, we recommend considering a joint process with the National Environmental Policy Act. Early consideration of NEPA analysis, and joint documents for federal agencies with potential decisions, are consistent with CEQ's NEPA regulations (40 CFR Sections 1501.2 and 1502.24). Guidance on integrating these processes is available here: https://opr.ca.gov/docs/NEPA_CEQA_Handbook_Feb2014.pdf. Potential federal lead or cooperating agencies include:

- Federal Energy Regulatory Commission (FERC) for electricity transmission review
- Department of Energy (DOE) for funding or financing actions
- Bureau of Land Management (BLM) for rights-of-way grant authorizations, geothermal leases, or mining Plan of Operations
- Army Corps of Engineers for Clean Water Act (USACE) Section 404 Individual Permit approvals
- U.S. Fish and Wildlife (USFWS) for activities that could impact the Sonny Bono Salton Sea National Wildlife Refuge

While the EPA does not expect any decisions on the project, we could be available to serve as NEPA cooperating agency. Regulations for requesting and determining federal lead agencies are found at 40 CFR Section 1501.7.