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**on Draft Report of the Blue Ribbon Commission on Lithium
Extraction in California**

Additional submitted attachment is included below.



October 28, 2022

California Energy Commission
Docket Unit, MS-4
Docket No. 20-LITHIUM-01
715 P Street
Sacramento, CA 95814

Submitted Electronically

RE: Comments on the Draft Report of the Blue Ribbon Commission on Lithium Extraction in California

Dear Commissioners:

The California Manufacturers & Technology Association (CMTA) appreciates the opportunity to comment on the Draft Report of the Blue Ribbon Commission on Lithium Extraction in California (Draft Report). CMTA was engaged in the introduction and conversations relating to Assembly Bill 1657 (E. Garcia, Chapter 271, Statutes of 2020) and are committed to working with the Blue Ribbon Commission, interested stakeholders, and all community leaders to create an environment where California's manufacturers can be the innovative leader in lithium extraction.

CMTA works to improve and enhance a strong business climate for California's 30,000 manufacturing, processing and technology-based companies. Since 1918, CMTA has worked with the state government to develop balanced laws, effective regulations, and sound public policies to stimulate economic growth and create new jobs while safeguarding the state's environmental resources. CMTA represents more than 400 businesses from the entire manufacturing community, including those who are bringing innovative technologies for use in and around the Salton Sea. Our economic sector generates more than \$300 billion every year and employs more than 1.3 million Californians.

We appreciate the Blue Ribbon Commission's efforts to advance the Draft Report and provide various recommendations/findings to the California State Legislature. CMTA views the Draft Report as a significant contribution to the ongoing evolution of this new California industry and is prepared to provide feedback in the hope of creating a collaborative dialogue and furthering California's innovative green economy.

Statutory Responsibilities of the Blue Ribbon Commission

As prescribed by AB 1657, the Blue Ribbon Commission is empowered to review, investigate, and analyze eight pertinent topics relating to lithium extraction and use in California. These eight components include actions to support lithium development, market opportunities, the added benefits of geothermal energy production, methods to overcome technical and economic limitations, methods of extraction, environmental protection, and recommendations to address conflicts or barriers for the lithium industry.

Further, AB 1657 declares that the opportunity for lithium production in California has the potential to unleash billions of dollars of new economic development and is a critical mineral “essential to the economic and national security of the United States.”¹ Both AB 1657 and the Draft Report outline how growth in demand for lithium is outpacing the growth in supply. There are concerns and market analyses that anticipate there will be a lithium deficit for the foreseeable future if more lithium production does not come on-line.²

Additional Comments and Elements for Consideration

CMTA is providing comments specific to Draft Report sections D and E, respectively.

Section D - Methods of Overcoming Technical and Economic Challenges Limiting Lithium Extraction, Processing, and Production from Geothermal Brines

As part of the FY2022-23 California State Budget, Senate Bill 125 established a volumetric-based excise tax on lithium extraction beginning January 1, 2023. The legislation established a tax rate of \$400 per metric ton for the first 20,000 tons or less of lithium carbonate extracted, \$600 per ton for 20,000 to 30,000 tons, and \$800 per ton for more than 30,000 tons.³

The Blue Ribbon Commission neglects to further opine on the possibilities that the excise tax may in fact prove to be an economic challenge that limits extraction or acts as hindrance to broader lithium development. The Draft Report is factually accurate in that “[...] there are no commercial-scale facilities operating” that utilize direct lithium extraction (DLE) from geothermal brines. While the Draft Report also states that “economic factors that could limit lithium recovery and production for geothermal brines [...] was covered in prior sections of this report [...],” in our review of the Draft Report, neither referenced section speaks to the potential of this excise tax being too aggressive on an industry that is not yet commercially scaled.

In fact, Section F of the Draft Report and relating to the potential economic impacts to California resulting from extraction, processing, and production of lithium, is a limited analysis that is focused only with the positive impacts the excise tax could create in potential new revenues. As the statewide trade association representing manufacturers and industry, the recently adopted tax structure is likely too aggressive and lacks needed flexibility for an industry sector that is in its infancy. The Blue Ribbon Commission is aware

¹ Assembly Bill 1657 (Garcia, E., Chapter 271, Statutes of 2020), https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1657

² Blue Ribbon Commission. 2021. “Transcript for the September 30, 2021, Blue Ribbon Commission Meeting.” <https://efiling.energy.ca.gov/GetDocument.aspx?tn=240135&DocumentContentId=73590>. page 64.

³ Senate Bill 125, Chapter 2, Section 47010 (a).

that California has not competed in this international market, is not familiar with the market's volatility, and acknowledges that we do not have a commercially-scaled industry.

CMTA finds that Section D of the report lacks critical substance and identification of the negative consequences that may result from California's lithium excise tax. Section D needs modification to fully acknowledge and analyze that the excise tax may also be a hindrance to industry, not just a net-economic benefit. The Blue Ribbon Commission is statutorily tasked to "review, investigate, and analyze [...] methods of overcoming technical and economic challenges currently limiting lithium extraction, processing, and production from geothermal brines," and all "potential economic and environmental impacts to the state resulting from extraction, processing, and production of lithium and lithium-dependent products from geothermal brines." As such, CMTA recommends that Section D be modified as necessary to address the potential negative consequences of the excise tax limiting lithium extraction and industry development.

Section E – Safe Environmental Methods and Standards for Lithium Extraction from Geothermal Brines

CMTA is significantly concerned with the lead recommendation in this section. The California Environmental Quality Act (CEQA), and its related processes, include the most comprehensive and all-encompassing environmental requirements in the world. To establish that CEQA "[...] should be considered the floor and not the ceiling [...]" is indicative of an intent to expand California's environmental regulation or make it more stringent. Any modification or expansion of the CEQA process is of great concern to our organization and other stakeholders. The impacts will inevitably delay proposed lithium extraction and related geothermal energy projects by decades.

CMTA recommends that all references to establishing processes that are more expansive and/or stringent than what is currently provided by CEQA be deleted from the report.

Conclusion

CMTA is committed to working with the Blue Ribbon Commission and other interested stakeholders in creating a viable California lithium industry. Unfortunately, the Draft Report is a different vision which creates significant regulatory and legal barriers for industry. It is imperative that the Blue Ribbon Commission modify the Draft Report in a manner consistent with its statutory responsibility.

Respectfully,



Dean Talley
Policy Director