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SBCTC and Imperial Building Trades Council Comments on Draft Report of the Blue Ribbon Commission on Lithium Extraction in CA

Additional submitted attachment is included below.



State Building & Construction Trades Council



October 26, 2022

Chair Silvia Paz and Commissioners
Lithium Valley Commission
California Energy Commission
Docket Unit, MS-4
Docket No. 20-LITHIUM-01
715 P Street
Sacramento, California 95814-5512

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

Dear Chair Paz and Commissioners,

The State Building and Construction Trades Council of California (SBCTC) and Imperial County Building and Construction Trades Council (collectively, “the Councils”) appreciates this opportunity to comment on the Draft Report of the Blue Ribbon Commission on Lithium Extraction in California, pursuant to Assembly Bill 1657. The highly skilled and trained professionals of the unions affiliated with the Councils build and maintain all types of industrial facilities in Imperial County and throughout California.

The Councils submit these comments in response to the Commission’s key recommendations to require that lithium recovery and production project developers enter into project labor agreements with the unions and in response to the Commission’s omission of its draft recommendation to require high job quality standards and job access agreements for long-term construction maintenance jobs. As explained below, the Councils believe that the project labor agreement (PLA) requirement should be clarified and that the draft recommendation requiring high job quality standards and job access agreements for maintenance be retained and clarified in the Final Report in order to ensure that the State and the Imperial and Coachella Valleys are positioned to realize both the short-term and long-term economic benefits of lithium extraction and production.

I. Background

A. Project Labor Agreements and Maintenance Agreements

PLAs ensure high labor standards, a stable supply of skilled labor, and predictable costs. A PLA is a comprehensive multi-employer/multi-union unitary collective bargaining agreement designed to cover an entire construction project. PLAs are generally negotiated by the entity that controls contracting for the project and a council of labor organizations that represent all the trades that will be employed on the project. PLAs set standard work rules, establish subcontracting and successorship obligations, establish methods for communication and coordination, and prevent work stoppages with no-strike/no-lockout provisions, and speedy dispute-resolution mechanisms.

A Maintenance Agreement is a comprehensive multi-employer/multi-union unitary collective bargaining agreement designed to cover subsequent construction work following initial construction that is contracted out to a contractor in the construction industry. Maintenance Agreements ensure that new jobs are not just short-term jobs, but long-term, middle-class jobs for the local community. Maintenance Agreements are generally negotiated by the entity that controls contracting for the project following initial construction and a council of labor organizations that represent all the trades that may be employed on subsequent construction work that is contracted out to a contractor in the construction industry. Maintenance Agreements similarly ensure high labor standards, a stable supply of skilled labor and predictable costs. Maintenance Agreements also set standard work rules, establish subcontracting and successorship obligations, establish methods for communication and coordination, and prevent work stoppages with no-strike/no-lockout provisions, and speedy dispute-resolution mechanisms.

PLAs and Maintenance Agreements are not the same as Community Benefit Agreements (CBAs). CBAs are negotiated between various stakeholders, such as community groups, labor organizations, and environmental groups, and developers and require “specified local benefits to maximize the positive impact of public investment.”¹ While benefits may include job quality and inclusive hiring goals, CBAs typically address other community benefits, such as investments in environmental restoration and other direct benefits to local low-income communities, along with a shared vision for development that benefits the whole community.²

B. Lithium Valley Commission Workshops and Draft Findings and Recommendations

Assembly Bill 1657 directed the Commission to review, investigate, and analyze, among other issues, “[p]otential economic and environmental impacts to the state resulting from extraction, processing, and production of lithium and lithium-dependent products from geothermal brines.”³ In February 2022, the Commission held a Workforce Development Workshop on jobs associated with geothermal resources and development, including lithium development, and creating access to economic and job opportunities. Carol Zabin, Ph.D., Director of the Green Economy Program

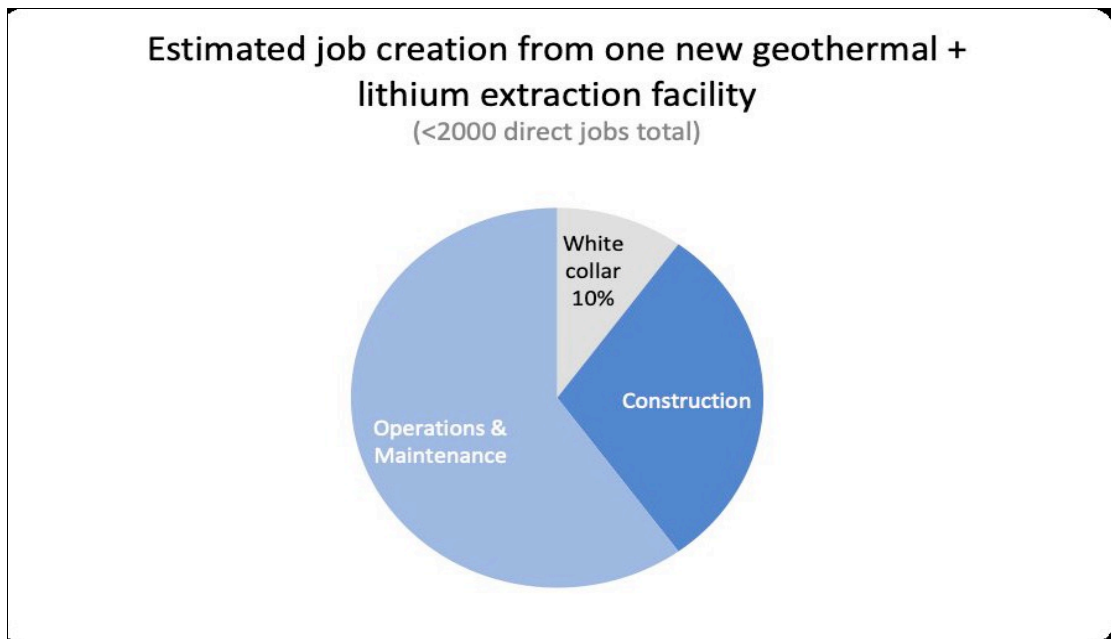
¹ Lithium Valley Commission, Presentation- Convening of the Lithium Valley Commission 02-24-22, (TN# 241964), Docket 20-LITHIUM-01, pp. 29.

² Id. at 99.

³ Assembly Bill 1657 (Garcia, E., Chapter 271, Statutes of 2020).

at the Center for Labor Research and Education at UC Berkeley explained that to ensure pathways for local workers into good jobs in lithium extraction, we have to start with policies aimed at growing the market in order to generate the demand for new jobs and “insert standards and strategies to make sure that new jobs are good jobs, and that workers from local communities get hired.”⁴ In other words, standards and strategies for good jobs must be an integral part of any new policies aimed at growing the lithium market.

Dr. Zabin explained that approximately 90% of the job creation from one new geothermal and lithium extraction facility will be blue collar jobs.⁵ Approximately 30% of those jobs would be in construction and approximately 60% of those jobs would be in operations and maintenance.⁶



See Lithium Valley Commission, Presentation- Convening of the Lithium Valley Commission 02-24-22, (TN# 241964), Docket 20-LITHIUM-01, p. 19.

In order for the State to realize the construction jobs, Dr. Zabin recommended “[a]ll new projects for lithium related development should be built under a Community Workforce Agreement (PLA with local hire).⁷ Dr. Zabin explained that PLAs set wage and benefit standards, ensure safe, family-supporting jobs for workers, ensure construction will be carried out with a fully-trained workforce, ensure use of apprenticeship training programs, organize the work by trade and ensure labor peace.⁸ In order for the State to realize the operations and maintenance jobs, Dr. Zabin recommended “[a]ll government assistance for new investment in lithium-related activities should

⁴ Lithium Valley Commission, Presentation- Convening of the Lithium Valley Commission 02-24-22, February 25, 2022 (TN# 241964), Docket 20-LITHIUM-01, pp. 15 and 18.

⁵ Id. at 19.

⁶ Id. at 19.

⁷ Id. at 20.

⁸ Id. at 20 and 99.

require job quality standards and job access agreements for O&M jobs.”⁹ In other words, operations and maintenance should also provide a “High Road Job,” which is defined as one that provides job quality, wages sufficient to support a family, high health and safety stands, career pathways, and worker protections.”¹⁰

Following the workshop, the Commission released its Draft Proposed Findings and Recommendations from the Workforce Development Workshop.¹¹ The Commission found “that it is imperative that projects...commit to requirements for strong workforce and labor standards, *including project labor agreements*, to create high quality jobs and support state-certified apprenticeship opportunities.”¹²

The Commission made fifteen recommendations, including the following:

- Organizing and developing PLAs to create benefits to the local community,¹³
- Supporting industry employer training partnerships that use High Road core principles for training and education, such as supporting and enhancing apprenticeships and other labor-management partnerships,¹⁴ and
- Creating a requirement for all government assistance that new investment in lithium related activities “require high job quality standards and job access agreements for blue collar (construction and operation and maintenance (O&M)) jobs.”¹⁵

The Commission’s draft recommendations addressed 90% of the job creation from one new geothermal and lithium extraction facility that are blue collar jobs.

II. The Blue Ribbon Commission Should Revise the Draft Report to be Consistent with the Findings and Recommendations from the Workforce Development Workshop

The Draft Report’s Workforce Development findings and recommendations address only 30% (as opposed to 90%) of the job creation from one new geothermal and lithium extraction facility that are blue collar jobs and require some corrections and clarifications.

The Draft Proposed Findings and Recommendations following the Workforce Development Workshop reflected stakeholder comments and data presented to the Commission that PLAs are critical to ensuring high quality jobs, that state-certified apprenticeship programs provide critical workforce training, and that operations and maintenance jobs are not only the majority of jobs that

⁹ Id. at 23.

¹⁰ Lithium Valley Commission, Draft Report of the Blue Ribbon Commission on Lithium Extraction in California, September 21, 2022 (TN# 246170), Docket 20-LITHIUM-01, p. 61; see also Lithium Valley Commission, Presentation- Convening of the Lithium Valley Commission 02-24-22, (TN# 241964), Docket 20-LITHIUM-01, p. 24.

¹¹ Lithium Valley Commission, Workforce Development Workshop Draft Proposed Findings and Recommendations, March 14, 2022 (TN# 242291), Docket 20-LITHIUM-01.

¹² Id. at 1.

¹³ Id. at 2.

¹⁴ Id. at 2.

¹⁵ Id.

would be created by a new lithium industry, but they must be high quality and accessible. These findings are consistent with studies showing that using PLAs to develop large and complex projects helps avoid costly project delays, strikes, or other work stoppages that could interfere with project construction. PLAs also ensure a qualified workforce and construction safety and increase environmental protection. Indeed, the organized sector of the construction industry invests \$1.3 billion annually in training programs and has more than 1,600 registered apprenticeship programs. Employing apprentices from state-certified apprenticeship programs is vital to training construction workers in an industry replete with physical hazards, rebuilding the middle class, and creating a strong economy. The unions are well-prepared to provide skilled and trained workers to construct and maintain lithium facilities in Imperial Valley.

Despite the potential for substantial economic growth, the need to ensure local hiring and skills readiness, and a PLA's effectiveness in achieving these benefits, the Draft Report omits the Commission's proposed finding referencing PLAs and state-certified apprenticeship programs as tools for requiring strong workforce and labor standards. Following the Workforce Development Workshop, the Commission proposed finding: "that it is imperative that projects...commit to requirements for strong workforce and labor standards, *including project labor agreements*, to create high quality jobs *and support state-certified apprenticeship opportunities*."¹⁶ Instead, the Draft Report contains a watered-down statement that projects: "commit to requirements for strong workforce and labor standards that produce high-quality jobs and careers."¹⁷

The Blue Ribbon Commission's omission of project labor agreements and omission of state-certified apprenticeship opportunities is inconsistent with the information presented to the Commission and inconsistent with the state's goal of providing high quality jobs in the region. The Draft Report recognizes that recovery of lithium and the growth of a regional economic hub that includes lithium processing and production could lead to substantial economic growth in the region.¹⁸ The Commission found that: "effective and inclusive budgeting and planning for future economic growth is imperative to ensuring local hiring and education and skills readiness for residents to take advantage of the anticipated economic opportunities."¹⁹ Finally, the Commission found that project labor agreements as a parallel to community benefits agreements are an effective tool to ensure necessary programs are developed and maintained.²⁰

The Councils recommend that page 62 of the Draft Report be revised to reflect the proposed findings that were prepared immediately following the Workforce Development Workshop:

The Blue Ribbon Commission finds it is imperative that new geothermal lithium recovery and related projects prioritize development and hiring of a local workforce, provide resources to support development of necessary training and educational opportunities, and commit to requirements for strong workforce and

¹⁶ Lithium Valley Commission, Draft Report of the Blue Ribbon Commission on Lithium Extraction in California, September 21, 2022 (TN# 246170), Docket 20-LITHIUM-01, p. 61;

¹⁷ Id. at 62.

¹⁸ Id. at 57.

¹⁹ Id. at 58 (emphasis added).

²⁰ Id. at 62.

labor standards, including project labor agreements, that produce high-quality jobs and careers and support state-certified apprenticeship opportunities.

The Councils also recommend that newly proposed and confusing language in the Draft Report referencing “unions and trades” be corrected in the second recommendation to achieve the potential economic benefits from Workforce Development. Specifically, the reference to “unions and trades” should either be “trade unions” or “unions.” In addition, PLAs are between developers and unions and are not entered into by state and local agencies, unless those state and local agencies are building the project. Finally, PLAs and Maintenance Agreements are not negotiated with “a community advisory council created to advise development of community benefits agreements,” but with the Councils, specifically the State Building and Construction Trades Council and the Imperial County Building and Construction Trades Council. Therefore, the Councils recommend clarifications to the Draft Report’s recommendations as follows:

1. Establish a requirement for receiving state support such that any project related to lithium recovery, production, or lithium-dependent product manufacturing must implement High Road job and career approaches to receive funding or other resource support from any state agency, including support for access to federal funding.
2. Require that lithium recovery and production project developers enter into project labor agreements with ~~unions and trades~~ the trade unions, ~~as well as appropriate state or local agencies~~ to support the development of educational pathways to develop a skilled and trained workforce, including internships, apprenticeships, certificate, and degree programs for local residents. Project labor agreements should be negotiated between the developer and the State Building and Construction Trades Council and the Imperial County Building and Construction Trades Council. Community Benefits Agreements should include coordination with a community advisory council created to advise development of community benefits agreements.
3. Authorize additional state agency support for the creation of curriculum, courses, and certification programs in science, technology, engineering, and mathematics (STEM) at local schools and colleges to advance critical knowledge and skills across all grade levels.²¹

Finally, the Councils recommend retaining a recommendation on long-term maintenance from the Proposed Findings and Recommendations following the Workforce Development Workshop. The Draft Report states that developing a local workforce was a high-priority topic of exploration for the Commission. The Commission recognizes that residents expressed concern that they will be “left behind” and that training programs result in real jobs for local residents.²² Unfortunately, the Draft Report omitted the Commission’s proposed finding following the Workforce Development Workshop on long-term good quality jobs. The Councils recommend retaining a recommendation on long-term maintenance from the Proposed Findings and Recommendations following the Workforce Development Workshop.

²¹ Id. at 12-13, 64, A-8 – A-9.

²² Id. at 61.

As explained in testimony to the Commission and set forth above, 90% of the job creation from one new geothermal and lithium extraction facility will be blue collar jobs, of which a majority - 60% - would be in operations and maintenance. Therefore, it is critical that the Commission retain its proposed recommendation following the Workforce Development Workshop that lithium related activities require high job quality standards and job access agreements for operation and maintenance jobs. In particular, the Councils recommend clarifying that construction maintenance jobs that are contracted out to a contractor in the construction industry, just like the original construction of the plant, be covered under Maintenance Agreements in order to ensure not just short-term jobs, but long-term jobs for the very same workers that constructed the plants in the first place. This is consistent with testimony that we should not prepare a workforce that is going to be out of a job in the long term.²³ Only by retaining a version of the recommendation addressing operations and maintenance will the Commission ensure that new jobs are not just short-term jobs, but long-term, middle-class jobs for the local community that will actually support a healthy economy in the region. Therefore, the Councils recommend the following:

4. Require that lithium recovery and production project developers enter into maintenance agreements with the State Building and Construction Trades Council and the Imperial County Building and Construction Trades Council to support the continued development of a skilled and trained workforce and to realize long-term, middle-class job benefits.

To ensure that the State and the Imperial and Coachella Valleys are positioned to realize both the short-term and long-term economic benefits of lithium extraction and production, the Draft Report's findings and recommendations should retain and strengthen the Proposed Findings and Recommendations following the Workforce Development Workshop, by requiring that lithium recovery and production project developers enter into PLAs and Maintenance Agreements with the Councils covering construction of the plants and subsequent construction work that is contracted out to a contractor in the construction industry, respectively, for all contractors, subcontractors and employees working on the projects.

Thank you for the opportunity to provide comments on the Draft Report.

Sincerely,



ANDREW J. MEREDITH
President
State Building & Construction Trades Council
of California



DANNY MACHAIN
President
Imperial County Building and
Construction Trades Council

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²³ Lithium Valley Commission, Transcript of March 24, 2022 Meeting, April 5, 2022 (TN# 242568), Docket 20-LITHIUM-01, pp. 17, 20, 30-32.

