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Lithium Valley Commission Report

Comments: Commissioner Rod Colwell
 Sub-body: Legislative and Regulatory Changes
 Date: November 7, 2022

General Comments

- Thanks to the CEC staff for incorporating comments from LVC Commissioners and consolidating the LVC report’s 44 draft recommendations.
- These revised recommendations better reflect the immediacy of the task at hand.
- Several of the revised recommendations require further refining and consolidation.
- Suggest consolidating Points 3&4, Points 18&23, Points 19&21, and Points 20&22.

Revised LVC Recommendations – Comments

List of Proposed Condensed Recommendations

Comments – Commission Colwell

	Recommendation	Topics	Com. Colwell Comments
Permitting			
1	(State and Local Agency) Establish a Lithium Valley priority permitting process that includes additional agency support for projects identified as essential to the growth of Lithium Valley.	<ul style="list-style-type: none"> • Market Opportunities Legislative or Regulatory Changes 	<ul style="list-style-type: none"> • Agree
Transmission Planning and Investment			
2	(State Agencies) Accelerate state planning for investment and upgrades in transmission for geothermal power plants in Imperial Valley to be online in 2024 and over the next decade.	<ul style="list-style-type: none"> • Geothermal Power/Lithium Recovery • Potential Benefits re: Geothermal Facilities /Grid Stability 	<ul style="list-style-type: none"> • No comment

Economic Development and Incentivizing Investment			
3	(Economic Development Zone) Establish a regional economic zone centered on public- private partnerships.	<ul style="list-style-type: none"> • Opportunities for Incentives/Investments 	<ul style="list-style-type: none"> • Suggest consolidating Points 3 and 4
4	(Regional Competitiveness) Identify a regional planning area and investment zone, not limited by traditional city or county boundaries, but instead reflecting the region across counties that have similar or integrated economic activity. Require that state programs recognize this region to support competitive participation in state and federal funding programs.	<ul style="list-style-type: none"> • Potential Economic Impacts • Opportunities for Incentives/Investments • Community 	<ul style="list-style-type: none"> • Consolidate with Point 3

	Recommendation	Topics	Com. Colwell Comments
5.	<p>(Investment) To stimulate investment, development, and innovation, consider indexing the volume-based extraction tax to market prices.</p> <p>Change to: (Investment) To alleviate uncertainty for industry and the community, recommend that the SB 125 tax mechanism study be completed by June 30, 2023.</p>	<ul style="list-style-type: none"> • Potential Economic Impacts • Opportunities for Incentives/Investments 	<ul style="list-style-type: none"> • An additional tax on lithium produced in California does not 'stimulate investment or development'. This is an incorrect statement. • Highly volatile spot prices do not reflect long-term contract prices • The only way to appropriately tax the lithium industry is to establish a percentage-based tax on gross lithium sales • The current 'per-ton' flat rate tax has already negatively impacted industry. No further offtake agreements have been announced since the SB 125 tax was signed into law in June 2022. • To alleviate uncertainty for industry and the community, recommend the SB 125 tax mechanism study be completed by June 30, 2023.
6.	<p>(Investment) Leverage existing support for research and development, start-up companies, and expansion of lithium battery and battery component manufacturing and recycling, especially cathode production using lithium produced through environmentally preferable methods.</p>	<ul style="list-style-type: none"> • Market Opportunities • Opportunities for Incentives/Investments • Overcoming Technical and Economic Challenges 	<ul style="list-style-type: none"> • Agree • Please clarify what 'existing support' network is available?

7.	(Supply Chain) Foster collaboration across the supply chain of lithium related technologies by creating networks, meetings, and other forums that regularly bring business, research, Tribes, communities, and government agencies together to identify short- and long-term economic opportunities.	<ul style="list-style-type: none"> • Overcoming Technical and Economic Challenges • Market Opportunities • Potential Economic Impacts 	<ul style="list-style-type: none"> • While I agree in principle, this is a vague recommendation • Recommend Imperial County to lead these efforts and/or identify an appropriate state agency or agencies to assist. (GoBiz)
8.	(Imperial County) Establish a business service center in Imperial County to facilitate access to business development incentive programs to benefit residents of disadvantaged communities, small businesses, and entrepreneurs.	<ul style="list-style-type: none"> • Opportunities for Incentives/Investments • Market Opportunities • Community 	<ul style="list-style-type: none"> • Agree in principle. • Consider identifying centers for economic development already established. • Speed is the key here to assist the many small businesses that will grow from the new lithium economy.
Circular Economy and Environmentally Sound Sourcing			
9.	(State Agency) Support development of a circular lithium economy based in California, with environmentally responsible sourcing of raw materials, requirements for product design that support recovery, reuse and recycling of materials, and development of effective recovery infrastructure, built with the assistance of public-private coalitions and effective community engagement.	<ul style="list-style-type: none"> • Market Opportunities • Opportunities for Incentives/Investments • Potential Economic Impacts 	<ul style="list-style-type: none"> • To secure cathode, battery manufacturing and recycling industries to Lithium Valley, these companies need assurances that their industries will not attract additional taxes, similar to the recently passed SB 125 tax on in-state lithium producers. • There is currently no cathode production in the U.S. • California could lead the way through incentive-based actions to attract these industries.

	Recommendation	Topics	Com. Colwell Comments
State Agency Initiatives and Programs			
10.	(Eastern Riverside County) Fund, from sources other than Imperial County, a health impact study to be carried out by an academic institution or public agency relating to increased development in the Salton Sea KGRA of geothermal power plants and DLE facilities and related, processing, production, and related manufacturing activities.	<ul style="list-style-type: none"> • Community • Safe Environmental Methods and Standards • Environmental Impact 	<ul style="list-style-type: none"> • While health studies can be valuable tools, how will this proposed study separate the current health issues that are not attributed to geothermal power production or any subsequent recovery of lithium? • The geothermal power industry has operated in the region for 40 years and many studies have confirmed its minimal to negligible environmental impact. • If a health impact study is to be of any value to the community, it should be developed as a separate study on current health impacts - with attribution to the sources responsible for these health impacts – It should not be considered a 'Lithium Valley' development health impact study.
11.	(Local and State Agencies) Provide resources for local and state agencies to proactively seek and leverage existing federal funding opportunities to invest in infrastructure in the Salton Sea region, including funding made available through the Infrastructure Investment and Jobs Act of 2021 (H.R. 3684) and the Inflation Reduction Act of 2022 (H.R. 5376).	<ul style="list-style-type: none"> • Opportunities for Incentives/Investments • Market Opportunities • Overcoming Technical and Economic Challenges 	<ul style="list-style-type: none"> • Agree

<p>12.</p>	<p>(State Agency) Establish a centralized permit and regulatory reporting tracking system for California projects that extract lithium from geothermal brine and lithium- related projects, such as lithium battery component manufacturing and recycling. Identify and authorize the most appropriate state agency(ies) to establish and oversee a program requiring that entities recovering and producing lithium in California report the operations of their facilities across a set of metrics, such as water use, emissions, waste produced and managed, and make the information accessible to and understandable by members of the public.</p>	<ul style="list-style-type: none"> • Overcoming Technical and Economic Challenges • Legislative or Regulatory Changes • Market Opportunities • Safe Environmental Methods and Standards • Community 	<ul style="list-style-type: none"> • Disagree • All the items listed in this recommendation are already covered by CEQA and other regulatory requirements. • This is effectively 'doubling up' on processes that hold the strictest standards in the United States. • If this 'tracking system' slows down an already significantly long permitting process, then it will hamper development efforts.
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	Recommendation	Topics	Com. Colwell Comments
Potential Environmental Impacts			
13.	(State Agency or Academia) Require and fund a study on whether increased geothermal development and DLE – and anticipated related development – would result in cumulative environmental impacts beyond those addressed in project level environmental review and, if so, include recommendations to avoid, reduce, or minimize those impacts.	<ul style="list-style-type: none"> • Potential Environmental Impacts • Safe Environmental Methods and Standards • Community • Tribal 	<ul style="list-style-type: none"> • Disagree • As noted in the report – CEQA already covers ‘cumulative environmental impacts’ • Any other form of study would be theoretical by nature and therefore unhelpful to the community and industry. <p>Note from Page 53 of the LVC report: <i>CEQA requires project monitoring and reporting requirements throughout the life cycle of a project. Standards are in place to assess cumulative impacts as well. In addition, CEQA specifies requirements for lead agency consultation with Tribes as part of the project permitting process. CEQA also includes requirements that the public must have opportunities to review and comment on environmental documents and decision making.</i></p>
14.	(State Agency, Academia, or IID) Require and fund a water study of projected cumulative infrastructure development of geothermal power plants and DLE facilities and related water use, sources, and availability.	<ul style="list-style-type: none"> • Potential Environmental Impacts • Safe Environmental Methods and Standards 	<ul style="list-style-type: none"> • I believe the IID presented future water requirements and reserves available for additional industry in the region.

Workforce Development			
15.	(State Agency) Require or establish incentives for developers to enter into, and continue entering into, project labor agreements, implement High Road principles, and prioritize local hiring.	<ul style="list-style-type: none"> • Potential Economic Impacts • Community 	<ul style="list-style-type: none"> • Industry is self-regulating regarding PLAs, establishing workforce and training development strategies and local hiring priorities as part of best business practices which are also essential for ESG-related financing and development.
16.	(School Districts and Trade Schools) Invest in 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.	<ul style="list-style-type: none"> • Potential Economic Impacts • Community 	<ul style="list-style-type: none"> • Agree • Industry is already working closely with educators and workforce development agencies in the region. • With clearer certainty on tax mechanisms and prioritized permitting, industry can move forward more confidently with short, mid, and long-term workforce, education, and training schedules and planning.

	Recommendation	Topics	Rod's Comments
Community Benefits and Safety			
17.	(Imperial and Riverside Counties) Invest in repairs, improvements to critical infrastructure and housing needed to support the success of lithium recovery, lithium processing, and lithium-dependent product manufacturing and recycling in the Salton Sea region, with a focus on the infrastructure and communities closest to geothermal powerplants and DLE facilities. Investment decisions should consider community priorities and include opportunities for participatory budgeting that includes public process and community involvement.	<ul style="list-style-type: none"> • Potential Economic and Environmental Impacts • Community 	
18.	(Local Agencies) Require and provide funds for the formation of a community advisory council to provide input and guidance on community priorities such as community benefits agreements, actions to protect public health and safety, and infrastructure improvements.	<ul style="list-style-type: none"> • Community • Safe Environmental Methods and Standards 	<ul style="list-style-type: none"> • This point should be combined with Point 23 • Local representatives are voted to govern by the community and to act in the best interests of the community. If these representatives believe a community advisory council is required, then I will defer to their recommendations.

19.	(CEQA Lead Agencies) Make information available and provide education to residents and affected businesses and service providers regarding the materials and processes used in DLE and lithium processing facilities, the final and intermediate products created, and any waste streams that must be managed.	<ul style="list-style-type: none"> • Community • Safe Environmental Methods and Standards 	<ul style="list-style-type: none"> • This point should be combined with Point 21 • CEQA already has robust community consultation processes and information sharing. • Further education can be achieved via plain language fact sheets produced by independent, 3rd party service providers without requiring formal changes to the CEQA processes.
Outreach and Engagement			
20.	(Tribes and Communities) Provide capacity building funds, such as grants, and other resources (e.g., childcare for parents to attend meetings) for Tribes and community members to engage with federal, state and local permitting agencies.	<ul style="list-style-type: none"> • Community • Tribal • Potential Economic Impacts 	<ul style="list-style-type: none"> • This point should be combined with Point 22

	Recommendation	Topics	Rod's Comments
21.	(Local and State Agencies) Establish standards for state and local permitting agencies to provide communities and Tribes with plain language written communications about geothermal power plant and DLE facility applications, the permitting processes to review the application, and post-approval monitoring and enforcement.	<ul style="list-style-type: none"> • Community • Tribal • Legislative or Regulatory Changes 	<ul style="list-style-type: none"> • This point should be combined with Point 19
22.	(CEQA Lead Agencies) Develop best practice guidance for lead agencies when initiating communications and consultation with Tribes (e.g., making multiple attempts through different methods, such as mail, email, telephone); providing reasonable time for Tribal governments to evaluate written materials; and, recognizing the specific cultural, historical, public health, and ecological context of the Salton Sea region.	<ul style="list-style-type: none"> • Legislative or Regulatory Changes • Community • Tribal 	<ul style="list-style-type: none"> • This point should be combined with Point 20 • CEQA currently uses best practices. • See comments at Point 20
23.	(Local Agencies) Engage a local coalition of public agencies and residents to identify whether additional actions are needed to protect public health and safety as well as improvements needed to attract new, sustainable business development and economic activity.	<ul style="list-style-type: none"> • Potential Economic Impacts 	<ul style="list-style-type: none"> • This point should be combined with Point 18