

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



Established in 1938

JENNIFER LUCCHESI, Executive Officer
(916) 574-1800
TTY CA Relay Service: **711** or Phone
800.735.2922
from Voice Phone **800.735.2929**
or for Spanish **800.855.3000**

Contact Phone: (916) 574-1890

December 1, 2021

Randall Cates
Kern County Planning and Natural
Resources Department
2700 "M" Street, Suite 100
Bakersfield, CA 93301

File Ref: SCH # 2021110076

Governor's Office of Planning & Research

Dec 01 2021

STATE CLEARINGHOUSE

VIA ELECTRONIC MAIL ONLY (CatesR@kerncounty.com)

Subject: Notice of Preparation for an Environmental Impact Report for the Gem Hill Quarry Project by CalPortland Company Project, Kern County

Dear Randall Cates:

The California State Lands Commission (Commission) staff has reviewed the subject Notice of Preparation (NOP) for the Environmental Impact Report (EIR) for the Gem Hill Quarry Project (Project) proposed by CalPortland Company (Project proponent). Kern County, as the public agency with regulatory authority over the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq) for preparation of the EIR. The Commission is a trustee agency for projects that could directly or indirectly affect school land and accompanying resources or uses. Additionally, because the Project involves work on State school land, the Commission will act as a responsible agency. Commission staff requests that the County consult with us on preparation of the Draft EIR as required by CEQA section 21153, subdivision (a) and State CEQA Guidelines¹ section 15086, subdivisions (a)(1) and (a)(2).

Commission Jurisdiction and School Lands

In 1853, the U.S. Congress granted to California nearly 5.5 million acres of land for the specific purpose of supporting public schools. In 1984, the State Legislature passed the School Land Bank Act (Act), which established the School Land Bank Fund and appointed the Commission as its trustee (Pub. Resources Code, § 8700 et seq.). The Act directed the Commission to develop school lands into a permanent and productive

¹ As used in this letter, "State CEQA Guidelines" refers to California Code of Regulations, title 14, Division 6, Chapter 3.

resource base for revenue generating purposes. The Commission manages approximately 462,830 +/- acres of school lands still held in fee ownership by the state and the reserved mineral interests on an additional 790,000 +/- acres where the surfaces estates have been sold. Revenue from school lands is deposited in the State Treasury for the benefit of the Teachers' Retirement Fund (Pub. Resources Code, § 6217.5).

The Project proponent has applied to the Commission (application A2481) for an amendment to Lease No. PRC 9504, a General Lease – Right-of-Way Use, of State-owned School land in a portion of Section 36, Township 10 North, Range 13 West, SBM, northwest of the Town of Rosamond, Kern County. The leased right-of-way includes an existing dirt road that provides access from Mojave-Tropico Road across APN 345-032-02 to land owned by the Project proponent.

Project Description

The Project is located at the West side of Mojave Tropico Road, approximately 2 miles south of Backus Road, and approximately 4 miles northwest of the unincorporated community of Rosamond in the County of Kern. The Project proponent has proposed a surface mining operation and development of a reclamation plan on 82 acres of an approximately 210-acre reclamation plan boundary, which would utilize a 0.75-acre primary access road outside of such reclamation plan boundary to provide access to and from Mojave Tropico Road.

From the Project Description, Commission staff understands that the proposed Project would increase the existing road width within APN 345-032-02 from 12 feet to 24 feet, with two 6-foot-wide shoulders on each side (for a total width of 36 feet). Class II Road Base would be installed and compacted to 90 percent or greater, and the road would be crowned to provide for proper drainage.

Environmental Review

Commission staff requests that the County consider the following comments when preparing the Draft EIR to ensure that impacts to State school land are adequately analyzed for the Commission's review and use of the EIR to support any Commission action related to the current application and any future amendments for Lease No. PRC 9504.

Project Description:

1. A thorough and complete Project Description should be included in the Draft EIR in order to facilitate meaningful environmental review of potential impacts, mitigation measures, and alternatives. The Project Description should be as precise as possible in describing the details of all allowable activities (e.g., types of equipment or methods that may be used, maximum area of impact, etc.), as well as the details of the timing and length of activities. In particular, please illustrate on figures and engineering plans and provide written description of activities occurring on State lands within the Project area. Thorough descriptions will facilitate Commission staff's

determination of the extent and locations of its leasing jurisdiction, make for a more robust analysis of the work that may be performed, and minimize the potential for subsequent environmental analysis to be required.

Biological Resources

2. For land under the Commission's jurisdiction, the Draft EIR should disclose and analyze all potentially significant effects on sensitive species and habitats in and around the Project area, including special-status wildlife and plants, and if appropriate, identify feasible mitigation measures to reduce those impacts. The County should conduct queries of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database and U.S. Fish and Wildlife Service's (USFWS) Special Status Species Database to identify any special-status plant or wildlife species that may occur in the Project area. The Draft EIR should also include a discussion of consultation with the CDFW and USFWS as applicable, including any recommended mitigation measures and potentially required permits identified by these agencies.
3. Construction Noise: The Draft EIR should evaluate noise and vibration impacts on wildlife and birds from construction and operating activities. Mitigation measures could include species-specific work windows as defined by CDFW and USFWS. Again, Commission staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species.

Climate Change

4. Greenhouse Gas (GHG): A GHG emissions analysis consistent with the California Global Warming Solutions Act (Assembly Bill [AB] 32; Nuñez, Chapter 488, Statutes of 2006) and required by the State CEQA Guidelines should be included in the Draft EIR. This analysis should identify a threshold of significance for GHG emissions, calculate the level of GHGs that will be emitted as a result of construction and operation of the Project, determine the significance of the impacts of those emissions, and, if impacts are significant, identify mitigation measures that would reduce them to the extent feasible.

Cultural Resources

5. Title to Resources: The Draft EIR should also mention that the title to archaeological sites and historic or cultural resources on jurisdictional lands is vested in the state and under the jurisdiction of the California State Lands Commission (Pub. Resources Code, § 6301). Commission staff requests that the County consult with Staff Attorney Jamie Garrett (contact information below), should any cultural resources on State lands be discovered during construction of the proposed Project. In addition, Commission staff requests that the following statement be included in the EIR's Mitigation and Monitoring Plan: "The final disposition of archaeological or historical resources recovered on State lands under the jurisdiction of the California State Lands Commission must be approved by the Commission."

Mitigation and Alternatives

6. Deferred Mitigation: In order to avoid the improper deferral of mitigation, mitigation measures must be specific, feasible, and fully enforceable to minimize significant adverse impacts from a project, and “shall not be deferred until some future time” (State CEQA Guidelines, § 15126.4, subd. (a).) However, recent amendments to the guidelines² explain that such deferral may be appropriate where another regulatory agency will issue a permit for the project and is expected to impose mitigation requirements independent of the CEQA process, so long as the EIR includes performance criteria, and the lead agency commits itself to the mitigation.
7. Alternatives: In addition to describing mitigation measures that would avoid or reduce the potentially significant impacts of the Project, the County should identify and analyze a range of reasonable alternatives to the proposed Project that would attain most of the Project objectives while avoiding or reducing one or more of the potentially significant impacts (see State CEQA Guidelines, § 15126.6).

Thank you for the opportunity to comment on the NOP for the Project. As a trustee and responsible agency, Commission staff requests that you consult with us on this Project and keep us advised of changes to the Project Description and all other important developments. Please send additional information on the Project to the Commission staff listed below as the Draft EIR is being prepared.

Please refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at (916) 574-1310 or cynthia.herzog@slc.ca.gov. For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Staff Attorney Jamie Garrett, at (916) 574-0398 or jamie.garrett@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact Randy Collins, Public Land Management Specialist, at 916-574-0900 or randy.collins@slc.ca.gov.

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
C. Herzog, Commission
R. Collins, Commission

² Clover Valley Foundation v. City of Rocklin (2011) 197 Cal.App.4th 200, 237; see also Oakland Heritage Alliance v. City of Oakland (2011) 195 Cal.App.4th 884, 910-912; Defend the Bay v. City of Irvine (2004) 119 Cal.App.4th 1261, 1276. Subsection (a)(1)(B) of §15126.4 was amended in 2018 to reflect case law developments.