

**CALIFORNIA STATE LANDS
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Governor's Office of Planning & Research

October 23 2023

STATE CLEARINGHOUSE

October 23, 2023

File Ref: SCH #2022030704

David Black, Planner
Imperial County Planning & Development
801 Main Street
El Centro, CA 92243

Subject: Draft Environmental Impact Report for the Hell's Kitchen Powerco 1 and Lithiumco 1 Project, Imperial County, California

Sent via email only: ICPDSCommentLetters@co.imperial.ca.us

Dear Mr. Black:

The California State Lands Commission (Commission) staff has reviewed the subject Draft Environmental Impact Report (Draft EIR) for the Hell's Kitchen Powerco 1 and Lithiumco 1 Project (Project), which is being prepared by Imperial County (County). The County, as the public agency with direct approval over the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

Project Description

Controlled Thermal Resources, Inc. (CRT) via its subsidiary Hell's Kitchen Geothermal, LLC is proposing the Hell's Kitchen PowerCo 1 (HKP1), and Hell's Kitchen LithiumCo 1 LLC is proposing the Hell's Kitchen LithiumCo 1 (HKL1) in Imperial County, California. HKP1 involves the development of a geothermal power plant that will produce up to 49.9 megawatts (MW) net of geothermal green energy. HKL1 involves development of mineral extraction and processing facilities capable of producing lithium hydroxide, silica and polymetallic products, and possibly boron compounds, for commercial sale.

The Draft EIR identifies the No Project Alternative as the Environmentally Superior Alternative.

Environmental Review

Commission staff requests that the County consider the following comments on the Project's Draft EIR.

General Comment

The Commission received and is currently processing applications from the Project proponent for a geothermal resources lease and a mineral extraction lease for subsurface use of State lands that are adjacent to the Project area (as identified in the Draft EIR). The Project proponent is seeking leases from the Commission to allow it to directionally drill from the Project area into the subsurface of adjacent State lands, most of which are owned in fee by the California Department of Fish and Wildlife (CDFW), and some of which the State holds a reserved mineral interest (RMI) in. For the lands owned by CDFW, the Commission would issue and manage a lease on behalf of CDFW, with CDFW's written consent, pursuant to Public Resources Code section 6924. The Draft EIR does not include any State lands in the designated Project area and neither the Project Description nor the Draft EIR analysis evaluate the potential impacts from any wells that would be drilled from the Project area into State lands.¹

If considered part of the Project, the EIR must disclose that CRT plans to access subsurface geothermal reservoirs outside of the designated Project area through directional drilling from the proposed Project site. As part of this disclosure, the document should identify the parcels, prepare a separate figure showing the surface and subsurface locations, describe the directional drilling construction methods and timing, and include any other information that would contribute to the environmental impact analysis. Unless this information and analysis is included in the Final EIR, the Commission, as a CEQA Responsible Agency (identified in Section 2.2.2.2), will need to conduct further environmental review to evaluate new or increased levels of impacts. This review could include a supplemental or subsequent CEQA document and would be conducted prior to any Commission action. If the County is considering a subsequent document to evaluate off-site drilling locations, please consider that action may be interpreted as piecemealing under CEQA, as noted in the letter from the

¹ The State lands that are the subject of the two applications to the Commission include APN 020-010-042, owned by CDFW. A portion of this parcel is included in the Project area for the Gen-Tie and Power Line, however it appears from the information provided in the Draft EIR that the Gen-Tie and Power Line will be constructed within existing rights-of-way, and thus would not require a Lease from CDFW or the Commission.

Imperial Irrigation District on the Project's Notice of Preparation, dated May 10, 2022.

The Draft EIR also lacks clarity and consistency regarding the number of wells to be drilled as part of the Project. Section 2.6.1 provides that the Project will include a total of seven wells for production and injection, including one well for injection of aerated fluids, and states that the two previously drilled exploration wells will be used as commercial production wells. Elsewhere, the Draft EIR notes that the Project site currently contains "four geothermal exploratory well pads and six separate geothermal exploratory wells." (See section 4.13.4.) It is not clear in the Draft EIR where the existing wells are located, how many there are, and into which lands the "total of seven wells" will be drilled (e.g., whether the seven total wells would be drilled directionally into State lands). In addition, the EIR must disclose whether drilling into State lands is necessary to meet the Project's objectives.

Groundwater Resources

The Draft EIR determined that the Project construction, development, and operation would not result in potentially significant impacts to groundwater supplies because the Project would not use any groundwater (See section 6.1.5). However, the Draft EIR does not identify off site directional drilling that may require groundwater during construction. Therefore, Commission staff request that the EIR clarify whether the directional drilling would require groundwater or otherwise impede groundwater basin management. If so, then the EIR must analyze those reasonably foreseeable impacts to groundwater resources.

Tribal Cultural Resources

Section 4.12 of the Draft EIR does not mention whether the County contacted the Native American Heritage Commission (NAHC) to obtain a list of all tribes that are traditionally and culturally affiliated with the geographic area of the Project for notification purposes and to assure a more thorough tribal consultation effort. Commission staff recommends that the County contact the NAHC to ensure that all traditionally and culturally affiliated tribes are aware of the Project and provided the opportunity to consult with the County.

Appendix L of the Draft EIR indicates that the County sent letters to the Fort Yuma Quechan Indian Tribe and the Torres-Martinez Desert Cahuilla Indians on March 21, 2022, in compliance with AB 52. Per page 4.12-4 of the Draft EIR, both tribes responded to the initial notification letter, with one tribe, the Quechan Indian Tribe, requesting consultation on April 5, 2022. During the County's consultation with the Fort Yuma Quechan Indian Tribe, the Tribe requested

changes to the cultural resources report. The Draft EIR states that "...these changes were made, and the updated cultural report was sent to the tribe." Commission staff request that the County elaborate on their effort to ensure the Tribe consented to the requested changes made to the Cultural Report. In addition, the Draft EIR does not provide the response from the Torres-Martinez Desert Cahuilla Tribe; therefore, Commission staff also request that the response from the Torres-Martinez Desert Cahuilla Indians be clarified in the Draft EIR.

Environmental Justice

In 2018, the Commission adopted an [Environmental Justice Policy](#). In this policy the Commission envisions a future in which environmental justice (EJ) communities are no longer disproportionately impacted by pollution or environmental hazards. The Draft EIR does not contain a separate EJ Discussion; however, EJ is discussed as part of the County's general plan policies in Table 4.5-1, specifically objective 3.7, which requires the County to evaluate environmental justice issues associated with job creation and displacement when considering the approval of renewable energy projects. The table indicates "No sensitive receptors are within 2 miles of the Project site. No impacts to disadvantaged communities would occur from implementation, and no Health Risk Assessment is required." According to [CalEnviroScreen](#) 4.0, the Project is located within a disadvantaged community as identified under Senate Bill (SB) 535 (De León, 2012). In addition, public concerns have been raised about the unknown public health impacts of lithium extraction and associated pollution burdens to nearby disadvantaged communities, including the impacts of chemicals used to separate lithium from the geothermal brine, and the potential link between geothermal activities at the Salton Sea and recent earthquakes. In light of these public concerns, Commission staff respectfully request more information be included in the document regarding impacts to adjacent disadvantaged communities due to Project implementation.

Thank you for the opportunity to comment on the Draft EIR for the Project. As a Trustee Agency, and as a Responsible Agency with respect to the activities contemplated by the applications currently under Commission review, the Commission may need to rely on the Final EIR for the issuance of any lease associated with the project that occurs on or in state lands; therefore, we request that you consider our comments prior to certification of the EIR. To the extent the State lands and wells are not included in the EIR, a further CEQA document will need to be prepared to address the Project-related development planned for State lands.

Please send copies of future Project-related documents, including electronic copies of the Final EIR, Mitigation Monitoring and Reporting Program, Notice of

Determination, CEQA Findings and, if applicable, Statement of Overriding Considerations when they become available. Please note that federal and state laws require all government entities to improve accessibility of information technology and content by complying with established accessibility requirements. (29 U.S.C. § 794d; 36 C.F.R. § 1194.1 et seq.; Gov. Code, § 7405.) California State law prohibits State agencies from publishing on their websites content that does not comply with accessibility requirements. (Gov. Code, § 115467.) Therefore, any documents submitted to Commission staff during the processing of a lease or permit, including all CEQA documentation, must meet accessibility requirements for Commission staff to place the application on the Commission agenda.

Please refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at (916) 574-1310 or via e-mail at cynthia.herzog@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact Ricky Lee, Associate Mineral Resources Engineer, at (562) 256-1521 or via email at ricky.lee@slc.ca.gov.

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Science,
Planning, and Management

cc: Office of Planning and Research
R. Lee, Commission
V. Perez, Commission
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