

**CALIFORNIA STATE LANDS
COMMISSION**

100 Howe Avenue, Suite 100-South
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Governor's Office of Planning & Research

February 20 2024

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February 20, 2024

File Ref.: 2023120104

Jim Minnick
Imperial County Planning and Development Department
801 Main Street
El Centro, CA 92243

SENT VIA EMAIL ONLY: jimminnick@co.imperial.ca.us

Subject: Notice of Preparation for a Draft Programmatic Environmental Impact Report for the Lithium Valley Specific Plan Project, Imperial County

Dear Mr. Minnick:

The California State Lands Commission (Commission) staff has reviewed the subject Notice of Preparation (NOP) for a draft Programmatic Environmental Impact Report (PEIR) for the Lithium Valley Specific Plan Project (Project), which is being prepared by Imperial County (County). The County, as the agency with primary review of the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). The Commission will act as a trustee agency because of its duty as the trustee of school lands to monitor projects that could directly or indirectly impact these lands. Commission staff requests that the County consult with us on preparation of the Draft PEIR as required by Public Resources Code section 21104, subdivision (a), and the State CEQA Guidelines 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. These lands are known as "school lands." In 1984, the State Legislature passed the School Land Bank Act (Act), which established the School Land Bank Fund (SLBF) 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 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 surface 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).

State Lands/Mineral Interests

The State lands within the Lithium Valley Planning Area are a combination of fee-owned and reserved mineral interests (RMI) school lands, as listed here:

State Fee-owned Lands –

1. Forty acres (APN 020-010-030-000) in the Southeast 1/4 of the Southeast 1/4 of Section 14, Township 11 South, Range 13 East, San Bernardino Baseline and Meridian, which were acquired by the State (Commission) from Imperial Irrigation District pursuant to a title exchange under Public Resources Code section 6307 (SLL 10), subject to: (1) a right of way for a drain channel over that portion of said lands included within a strip of land 80 feet in width, the center line of which is the center line of the "o" drain as now constructed, as reserved by said district; and (2) all easements and rights of ways of record in the name of or theretofore used by Imperial Irrigation District for irrigation, waste or drainage canals, et al, as reserved by said district.

Please note that this parcel is currently subject to a unitized geothermal resources lease issued by the Commission to Hudson Ranch I Holdings LLC (Lease 9000).

State 100 percent RMI Lands –

1. Eighty acres known as Parcel No. 241-553 (APN 020-010-040), in the East 1/2 of the Northeast 1/4 of Section 16, Township 11 South, Range 13 East, San Bernardino Baseline and Meridian, (which were acquired by the Commission and patented as school lands, with 100 percent minerals reserved. The State Patent was issued to the Imperial Irrigation District, dated 2/9/1962. These lands are covered by the waters of the Salton Sea.
2. Forty acres known as Parcel No. 240-573 (APN 003-220-012), which is in the Northwest 1/4 of the Northwest 1/4 of Section 36, Township 10 South, Range 13 East, San Bernardino Baseline and Meridian, which were acquired by the Commission and patented as school lands, with 100 percent minerals reserved. The State patent was issued 2/21/1958. The surface owner is the California Department of Fish and Game, and the lands are within the Wister Unit of the Imperial State Wildlife Area.

State 1/16th RMI Lands –

1. Forty acres known as Parcel No. 240-575 (APN 003-230-035), which is in the Northwest 1/4 of the Northwest 1/4 of Section 32, Township 10 South, Range 14 East, San Bernardino Baseline and Meridian, which were acquired by the Commission and patented as Lieu Lands, with a 1/16th interest in the minerals reserved to the State.
2. Forty acres known as Parcel No. 240-574 (APN 003-230-065, 066 and Por. of 054), which is in the Northeast 1/4 of the Northwest 1/4 of Section 32, Township 10 South, Range 14 East, San Bernardino Baseline and Meridian, which were acquired by the Commission and patented as Lieu Lands, with a 1/16th interest in the minerals reserved to the State.

Should any future projects be considered that would include the areas noted above, an application will need to be submitted to the Commission so that a determination may be made as to the type of permit, lease, or other authorization that would be required. Please contact Vanessa Perez for further information (see contact information below).

Project Description

The Project is intended to provide a framework and guidance for, and streamline the development and permitting of, additional renewable energy infrastructure and facilities, mineral recovery, lithium battery manufacturing, and other renewable industries within an approximately 51,786-acre area adjacent to the Salton Sea. The Project aims to facilitate the existing and future renewable energy development, lithium extraction, associated infrastructure, commercial, and related manufacturing industries investment that provides quality local jobs, while minimizing adverse effects on the environment and public health.

Environmental Review

Commission staff requests that the following potential impacts be analyzed in the PEIR.

General Comments

1. Programmatic Document: Because the EIR is being proposed as a programmatic rather than a project-level document, the Commission expects the Project will be presented as a series of distinct but related sequential activities (i.e., particular proposed actions). The State CEQA Guidelines, section 15168, subdivision (c)(5) states that a program EIR will be most helpful in dealing with subsequent activities if it deals with the effects of the program as specifically and comprehensively as possible. In order to avoid the improper deferral of mitigation, a common flaw in program-level environmental documents, mitigation measures should either be presented as specific, feasible, enforceable obligations, or should be presented as formulas containing "performance standards which would mitigate the significant effect of the project, and which may be accomplished in more than one specified way" (State CEQA Guidelines, § 15126.4, subd. (a)). As such, the program EIR should make an effort to distinguish what activities and mitigation measures related to renewable energy infrastructure and facilities, mineral recovery, lithium battery manufacturing, and other renewable industries are being analyzed in sufficient detail to be covered under the program EIR without additional project specific environmental review, and what future land development activities will trigger the need for additional environmental analysis (see State CEQA Guidelines, § 15168, subd. (c)). For example, if the County anticipates relying upon the PEIR for future approvals related to the Hell's Kitchen Powerco 1 and Lithiumco 1 Project (SCH 2022030704), then the PEIR must include a detailed description of associated Project activities, impacts, and mitigation measures that were not previously analyzed and that would occur within the Lithium Valley Planning Area.
2. Project Description: A thorough and complete Project Description should be included in the PEIR 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., sample land development activities for each identified area in the Specific Plan, types of equipment or methods that may be used, maximum area of impact or volume of soil removed or disturbed, seasonal work windows, locations for material disposal, etc.), as well as the

details of the timing and length of activities. Thorough descriptions will facilitate Commission staff's determination of the extent and locations of its jurisdiction as well as make for a more robust analysis of both Program- and Project-level work that is being evaluated in the PEIR.

Biological Resources

3. Sensitive Species: The area encompassed by the Project includes habitat for several sensitive or special status species that could be affected by construction depending on the time of year. In order to ensure the PEIR is as complete and thorough as possible in disclosing and analyzing potential impacts to biological resources, the County should conduct queries of the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDDB) 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. In addition, the County should initiate consultation with the above agencies to ensure the information is current and accurate. The PEIR should analyze the potential for such species to occur in the Project area and, if impacts to special status species are found to be significant, identify mitigation measures that would avoid or lessen the impact to the extent feasible.

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 PEIR. This analysis should identify a threshold for significance for GHG emissions, determine whether future land development activities may exceed that threshold, and identify programmatic mitigation measures that would reduce the emissions to less than significant levels.

Hydrology

5. Groundwater: If the County anticipates relying upon the PEIR for lithium extraction projects, then the PEIR should analyze whether the development and operation of projects within the Specific Plan area could result in potentially significant impacts to groundwater supplies. Analysis should include off site directional drilling that may require groundwater during construction. Therefore, Commission staff request that the PEIR clarify the amount of groundwater lithium extraction projects would require and whether future projects would impede groundwater basin management.

Environmental Justice

6. 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 Initial Study does not contain a separate EJ Discussion; however, EJ is part of the County's general plan policies, 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. According to [CalEnviroScreen](#) 4.0, the Specific Plan area includes 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 appreciate the ongoing efforts of the County through the creation of the Environmental Justice Working Group and respectfully request that information be included in the PEIR regarding impacts to adjacent disadvantaged communities due to Project implementation.

Additional Review

7. Deferred Mitigation: In order to avoid the improper deferral of mitigation, mitigation measures (MMs) 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)). For example, references to the preparation of a plan to reduce an impact, without calling out the specific activities that will be included in the plan to reduce that particular impact to a less than significant level, is considered deferral. Commission staff requests that specific information be provided in such MMs to demonstrate how the MM is going to mitigate potential significant impacts to less than significant.

Thank you for the opportunity to comment on the NOP for the Project. As a trustee agency, the Commission 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 PEIR is being prepared.

Jim Minnick
February 20, 2024
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Please refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at (916) 574-1310 or via email at cynthia.herzog@slc.ca.gov. For questions concerning Commission jurisdiction, please contact Vanessa Perez, Senior Mineral Resources Engineer, at (562) 256-1524 or via email at vanessa.perez@slc.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Nicole Dobroski". The signature is written in a cursive, flowing style.

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

cc: Office of Planning and Research
C. Herzog, Commission
V. Perez, Commission
M. Wiemer