

## Commenting Agency Procedures

Updated July 19, 2022

### Introduction

The California Geologic Energy Management Division (CalGEM) acts as a Commenting Agency when it is neither the Lead Agency (LA) nor the Responsible Agency (RA) (i.e., does not have discretionary authority over a project), but when there may be concerns that another agency's proposed project could affect oil, gas, and geothermal resources. As a Commenting Agency, CalGEM reviews environmental documents and notices prepared for proposed projects by other LA, and may provide comments regarding oil, gas, and geothermal resources potentially affected and suggest any alternatives or mitigation measures that would avoid or reduce any significant environmental impacts. CalGEM's comments are based on its jurisdictional authorities, areas of responsibility, and expertise.

For most projects, district staff will conduct the Commenting Agency reviews to ensure that (1) another agency's project doesn't affect oil, gas, or geothermal resources that are on or near the project location; and (2) any references to CalGEM's authority is correctly stated, and the LA does not override it.

District staff will provide any substantive comments regarding activities involved in projects that are within CalGEM's area of expertise and will prepare and email comment letters to LAs. In special cases, when a project is politically sensitive, or it's known that CalGEM may potentially be a RA in the future, the CEQA Program may assist in the document review and provide additional information to be included in the comment letter.

### Authorities

While the term "Commenting Agency" or "Reviewing Agency" are terms of practice typically used by CEQA practitioners, it is the concept, required review and comment actions by a "state agency" or "other public agency", rather than the exact terminology, that is referred to in the CEQA Guidelines (14 CCR), as paraphrased in the pertinent sections below:

### **§15073 Public Review of a Proposed Negative Declaration (ND) or Mitigated ND (MND)**

- (a) .... public lead agency shall provide for a public review, when a proposed ND/MND and IS are submitted to the SCH for review by state agencies ...
- (c) ... public lead agency sends proposed ND, MND and Initial Study (IS) with the NOI to "every responsible agency and trustee agency concerned with the project and every other public agency with jurisdiction by law over resources affected by the project".

- (d) Where one or more state agencies will be a responsible agency or a trustee agency or will exercise jurisdiction by law over natural resources affected by the project, or where the project is of Statewide/regional/areawide environmental significance .... the lead agency will send copies of the ND/MND declaration to SCH for distribution to the state agencies.
- (e) The lead agency will notify any public agency which commented on a proposed ND/MND of any public hearing to be held for the project for which the document was prepared ...

#### **§15086 Consultation Concerning Draft EIR**

- (a) The lead agency shall consult with and request comments on the draft EIR from:
  - 1) Responsible Agencies;
  - 2) Trustee agencies with resources affected by the project; and
  - 3) *Any other state, federal, and local agencies which have jurisdiction by law with respect to the project or which exercise authority over resources which may be affected by the project, including water agencies consulted pursuant to section 15083.5*
- (c) A responsible agency or other public agency shall only make substantive comments regarding those activities involved in the project that are within *an area of expertise of the agency or which are required to be carried out or approved by the responsible agency*. Those comments shall be supported by specific documentation.

#### **§15200 Purposes of Review** of EIRs and ND/MNDs include:

- (a) Sharing expertise
- (b) Disclosing agency analyses
- (c) Checking for accuracy
- (d) Detecting omissions
- (e) Discovering public concerns
- (f) Soliciting counter proposals

#### **§15204 Focus of Review**

- (d) Responsible agencies shall focus its comments on environmental information germane to that agency's statutory responsibility.

#### **§15205 Review by State Agencies**

- (a) Draft EIRs and ND/MNDs to be reviewed by state agencies shall be submitted to the SCH ...
- (c) Public agencies may send environmental documents to SCH for review where a state agency has special expertise with regard to the impacts involved (see Appx B\* – areas of statutory authorities of state agencies).

- (f) While a lead agency may contact the regional & district offices of state Responsible Agencies, they must submit documents to SCH for distribution to comply with the review requirements of this section.

NOTE: Appendix B of this procedure has the CEQA Guidelines Appendix B, which provides statutory authority of State departments, including DOC.

### **Basic Information**

The CEQA Commenting Agency Lead (CEQA Lead) or designee, receives an email notice from the Department of Conservation's (DOC) Office of Legislative and Regulatory Affairs (OLRA) that one of the following types of documents may be of interest to CalGEM's CEQA Program:

CEQA Documents: Initial Study (IS), Negative Declaration (ND), Mitigated Negative Declaration (MND), Environmental Impact Report (EIR)

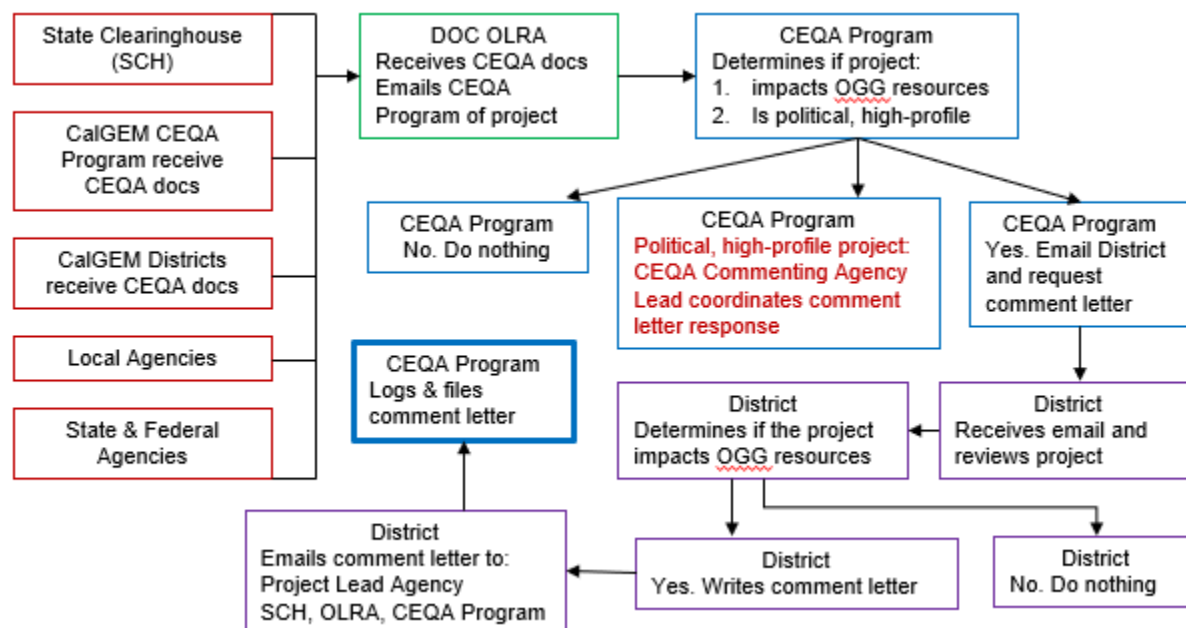
CEQA Notices: Notice of Availability (NOA), Notice of Completion (NOC), Notice of Intent (NOI) for ND/MNDs, Notice of Preparation (NOP) for an EIR

CalGEM districts receive CEQA documents from the CEQA Lead or designee, State Clearinghouse (SCH), project applicant, or local government. Documents sent directly from local governments are often notices of lot line adjustments or parcel map splits.

Regardless of how and from where CEQA documents are received, the end goal is the same in most cases, for district staff to comment on a project prior to the end of the public comment period and to email a copy of the letter to the LA for the project, the SCH, CEQA Program, and OLRA. See Figure 1. Commenting Agency Flowchart.

In special cases, such as environmental documents prepared for general plans, elements and or amendments or politically sensitive projects, the CEQA Lead will review the document and write the comment letter.

**Figure 1. Commenting Agency Flowchart**



### Types of Projects for District Comment Letters

District staff provides comments to the LA on projects related to CalGEM's areas of responsibility and expertise. These projects may include, but are not limited to, the following:

- A CEQA document (DEIR, MND, ND) for a development project that may have the potential to impact oil, gas or geothermal wells and, or facilities.
- A proposed project is oil and gas related.
- The proposed project is within an oil and gas field.
- The proposed project site has existing active, idle or abandoned oil and gas wells on the site or nearby. These types of projects may include infrastructure, new buildings, improvements, etcetera.
- A proposed residential development is located within 1 kilometer of an oil or gas well, or adjacent to the boundary of either an oil and gas field or gas storage facility.

### CEQA Document and District Comment Letter Flow

There are three scenarios for receiving CEQA documents and district staff sending a comment letter to a LA. They are:

1. **OLRA identifies CEQA projects for review.** OLRA searches the SCH website for projects that may impact DOC Divisions. OLRA notifies the CEQA Lead, via email, that a project may be of interest to CalGEM. The CEQA Lead or designee, emails district staff to request review and comment on a project. District staff writes a comment letter. District staff emails the original comment letter to the LA and cc's, the SCH ([state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)), CEQA Lead and OLRA.
2. **CEQA Lead receives CEQA documents.** CEQA Lead notifies OLRA of the project at which point the path in No. 1 is followed to completion.
3. **District offices receives CEQA documents from local agencies.** District staff comments on the CEQA document for the project. District staff emails the original comment letter to the LA and cc's, the SCH ([state.clearinghouse@opr.ca.gov](mailto:state.clearinghouse@opr.ca.gov)), CEQA Lead and OLRA.

See Figure 1. Commenting Agency Flowchart

### **Types of Projects for CEQA Lead Comment Letters**

There are two instances when the CEQA Lead will either draft a comment letter or work closely with district staff to draft a comment letter.

1. A project is politically sensitive and or a high-profile project.
2. A project is a General Plan (GP), GP element or a GP amendment.

In either of these instances the CEQA Lead will discuss the project with CEQA Unit Supervisor to determine the course of action for drafting a comment letter. Possible actions may include, but are not limited to:

1. The CEQA Lead drafts the comment letter with input from district staff and, if necessary, consultation with CalGEM assigned attorney. The comment letter is sent from CalGEM HQ.
2. District staff drafts the comment letter with input and review from the CEQA Lead. The comment letter is sent from district with district staff signature on letter.

### **OLRA Email Notification of Projects to CEQA Lead**

OLRA staff notifies the CEQA Lead via email, when a project may impact oil, gas or geothermal resources. An example email is shown in Figure 2 below.

## Figure 2. Email Notification from OLRA

**From:** Ponce, Mariah@DOC <Mariah.Ponce@conservation.ca.gov>  
**Sent:** Friday, April 22, 2022 3:52 PM  
**To:** Perez, Jan@DOC <Jan.Perez@conservation.ca.gov>; Aw-Yang, Cassie@DOC <Cassie.Aw-Yang@conservation.ca.gov>  
**Subject:** CEQA Review SCH 2022040471

**SCH Number**

2022040471

**Lead Agency**

San Joaquin County Area Flood Control Agency

**Document Title**

Mossdale Tract Area Urban Flood Risk Reduction Project

**Document Type**

NOP - Notice of Preparation of a Draft EIR

**Received**

4/21/2022

**Present Land Use**

levees, open space, agriculture

**Document Description**

The proposed project would provide increased public safety benefits by rehabilitating and improving flood management infrastructure to achieve a 200-year Urban Level of Protection for the Mossdale Tract area. The 22,400-acre Mossdale Tract area was identified in the 2021 Draft Mossdale Tract Area Urban Flood Risk Reduction (UFRR) Study published by SJAFCA and the California Department of Water Resources. The Mossdale Tract area includes RD 17 (16,110 acres), portions the Cities of Stockton, Lathrop, Manteca, and unincorporated San Joaquin County. The proposed project area includes the State Plan of Flood Control levees, RD 17's non-Project dryland levee, the Mossdale Tract area, and areas to the west along the San Joaquin River identified for the potential development of ecosystem restoration features. The proposed project would include the construction and operation of flood risk reduction and multi-benefit components in and adjacent to the Mossdale Tract area. The flood risk reduction components are fix in place and potential setback levee improvements and the multi-benefit components are ecosystem restoration and recreational features.

Best,



**Mariah Ponce**

Legislative Coordinator | Office of Legislative and  
Regulatory Affairs

**California Department of Conservation**

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T: (916) 217-2820

E: [Mariah.Ponce@conservation.ca.gov](mailto:Mariah.Ponce@conservation.ca.gov)

The CEQA Lead, or designee, will log the email notice from OLRA in the "CalGEM Comment Letters\_Tracking\_2022.xlsx" tab "OLRA Email Notices."

The CEQA Lead, or designee reviews the information in the email sent from OLRA and decide if a project may impact oil, gas or geothermal resources. This is done by reviewing the project description, possibly looking up the document on <https://ceqanet.opr.ca.gov/> and the project's location on CalGEM's Well Finder. If the project meets the requirements in "**Types of Projects for District Comment Letters**" for review, then CEQA Lead, or designee will email district staff to notify the district of the project. The CEQA Coordinator, or designee will log the email notification in the "CalGEM Comment Letters\_Tracking\_2022.xlsx."

If the project does not meet the requirements in “**Types of Projects for District Comment Letters**” for review, then staff’s review is complete, and no further action is need.

For a list of current district contacts information see “CalGEM Comment Letters\_Tracking\_2022.xlsx” tab “District Contacts.”

File path: SharePoint CU CEQA Program: Documents > General > Commenting Agency

### **CEQA Program Lead Email Notification of Projects to District**

If the CEQA Lead or designee determines another agency’s CEQA document and/or notice has potential impacts to oil, gas or geothermal resources, the CEQA Lead or designee will email district staff notifying staff of the opportunity to review and comment on a project. An example email is shown in Figure 3 below.

**Figure 3. Email Notification sent from CEQA Lead or designee to District Staff**

Example of CEQA Notice to Districts



Please review CEQA project # **SCH 2020109022**

Document Type: Notice of Preparation

Project Lead Agency: San Benito County

Project Title: **Ridgemark** Master Plan

**Project Description:** The proposed project would amend the zoning on the site as needed to establish a base zone of “Single-family Residential (R-1)” District combined with either the “Planned Unit Development (PUD)” Combining District or the Neighborhood Commercial District (C-2) Combining District, a vesting tentative map, residential and commercial/non-residential development, recreational/open space improvements, roadway improvements, and utility improvements. The proposed vesting tentative map would re-subdivide the project site to create 190 new residential lots, five new commercial/nonresidential lots, nine buffer zone lots, six undeveloped lots, five golf course lots, and one lot for a park; all within the proposed development area.

Go to <https://ceqanet.opr.ca.gov/Search/Advanced> and enter in the project number to access project documents.

If your Division identifies a potential program impact from this project, please provide your comments to the lead agency by **November 23, 2020**. Send a copy of your comment to the State Clearinghouse at [state\\_clearinghouse@opr.ca.gov](mailto:state_clearinghouse@opr.ca.gov) and include [OLRA@conservation.ca.gov](mailto:OLRA@conservation.ca.gov), [YOUR\\_NAME@conservation.ca.gov](mailto:YOUR_NAME@conservation.ca.gov) so that we can file your comment in our records. Be sure to include the project number (SCH #) on all correspondence.

## District Notification of a Comment Letter and Logging a Comment Letter

District staff comments on a project, staff emails a copy of a comment letter to the LA for the project, the SCH, OLRA and the CEQA Lead or designee.

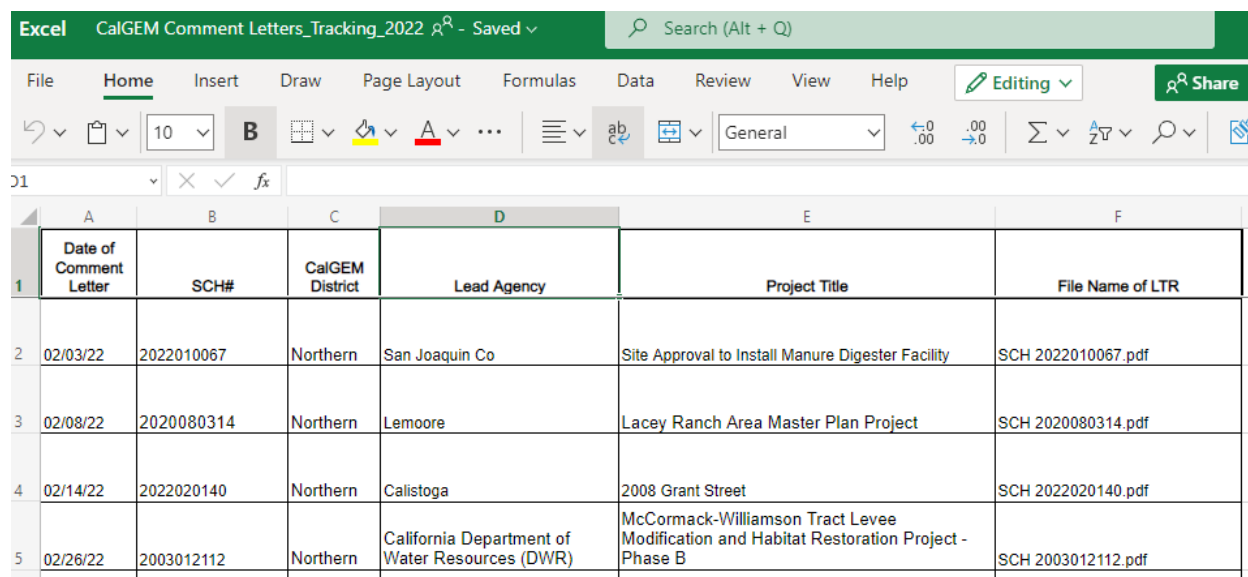
When the CEQA Lead or designee receives a comment letter from the district, they file a copy of the letter in the district folder on SharePoint and log the letter into the CALGEM Comment Letters\_Tracking.xlsx workbook

File path to District Comment Letter Files: SharePoint CU CEQA Program: Documents > General > Commenting Agency > 01. 2022 District Comment Letters

File path to CALGEM Comment Letters\_Tracking.xlsx workbook: SharePoint CU CEQA Program: Documents > General > Commenting Agency > 01.

Enter information into the tab labeled: CalGEM Comment Letters

Once this is done the process is complete.



	A	B	C	D	E	F
1	Date of Comment Letter	SCH#	CalGEM District	Lead Agency	Project Title	File Name of LTR
2	02/03/22	2022010067	Northern	San Joaquin Co	Site Approval to Install Manure Digester Facility	SCH 2022010067.pdf
3	02/08/22	2020080314	Northern	Lemoore	Lacey Ranch Area Master Plan Project	SCH 2020080314.pdf
4	02/14/22	2022020140	Northern	Calistoga	2008 Grant Street	SCH 2022020140.pdf
5	02/26/22	2003012112	Northern	California Department of Water Resources (DWR)	McCormack-Williamson Tract Levee Modification and Habitat Restoration Project - Phase B	SCH 2003012112.pdf