MINUTES OF THE
PLANNING COMMISSION MEETING

September 12, 2012

The Imperial County Planning Commission convened a meeting on Wednesday, September 12, 2012 at 9:00 AM in the Board of Supervisors Chambers, El Centro, California.

Chairman Rudy Schaffner called meeting to order at 9:05 a.m.

Roll Call

Commissioners present: Schaffner, Kalin, Bergh, Cabanillas, Castillo, Gaddis, Hargrave, Niver and Roben. Commissioner Herrera was not present.

Pledge of Allegiance.

Chairman Schaffner entertained a motion to approve the revised Minutes of the August 8, 2012 and August 22, 2012 Meetings, as presented by staff.

Motion made by Commissioner Kalin and seconded by Commissioner Bergh to approve the Minutes as presented by staff for the August 8, 2012 and August 22, 2012 meetings and carried on the affirmative vote of Commissioners Schaffner (Yes), Kalin (Yes), Bergh (Yes), Cabanillas (Yes), Castillo (Yes), Gaddis (Yes), Hargrave (Yes), Niver (Yes) and Roben (Yes).

Staff present: Director of Planning & Development/Villa, Assistant Director/Minnick, Planner IV/Cabanilla, Planner I/Chavez and Clerk/Scoville.

PUBLIC HEARINGS:

1. Consideration of Code Enforcement for Carlos and Norma Gomez for overgrown weeds/vegetation, and the storage of tires, wood, rubbish and miscellaneous junk on property described as Parcel 1 & 2, Parcel Map 690, of Lot 5 Seeley Acres 15-13 1.40 acres. Assessor Parcel Number 062-132-006-000. (1396 West Evan Hewes Highway, Seeley), (Supervisiorial District #3). The Commission took the following action;

Chairman Schaffner stated that Item #1 has been pulled; the applicant brought pictures of the property showing the clean up process and does not need to be heard.

A. No Motion needed for Item #1.

Commissioner Roben stepped down due to a possible conflict of interest at 9:15 a.m.

2. Consideration of the Final EIR (FEIR), SCH #2010101065, Findings of Fact, Mitigation Monitoring and Reporting Program (MM&RP) and Water Supply Assessment for the Hudson Ranch II and SIMBOL Calipatria Plant II FEIR that includes a geothermal 49.9-MW (net) geothermal flash power plant and a commercial lithium carbonate extraction plant located southwest of the Townsite of Niland, west of English Road, east of Davis Road, and south of McDonald Road, on property described as a portion of the North ½ of Section 19, Township 11 South, Range 14 East, SBB&M within Assessor Parcel Number 022-010-009-000 (Supervisiorial District #4). The Commission took the following action:

Assistant Director Minnick introduced Richard Cabanilla, Planner IV, Staff handling the Hudson Ranch II & SIMBOL Calipatria Plant II.
Richard Cabanilla, Planner IV, gave a brief presentation on the FEIR, MM&RP, Findings of Fact, G10-0002 and CUP12-0005 for the Hudson Ranch II & SIMBOL Calipatria Plant II, into the record by a power point presentation. Mr. Cabanilla also introduced the team working on this project and had some housekeeping items; to the heading of the Resolutions: add an “S” to read “Programs” instead of “program” on the heading, and deleting the second Resolution which basically states the same thing. Also, add a condition to the Simbol facility on page 23 under S-23, (Traffic Safety). Imperial County Public Works would like to add the following: “Permittee shall provide a Bond for road improvements until such time the road is completed, bonding shall meet County requirements”. On page 27 of the same project, there’s an addition to S-23 so it’s consistent with the Hudson Ranch II project. They will add that the Permittee shall pay for all costs as required, to comply with conditions of approval. In the Hudson Ranch II, there is a duplication and would like to delete them. With those edits, Tina Willis/County Consultant, will give her power point EIR Presentation.

Chairman Schaffner asked Mr. Cabanilla, if the Applicant is aware of the housekeeping items and agrees with those edits.

Mr. Cabanilla stated that the Applicant is aware of those edits and agrees with all edits.

Christina Willis, EIR Consultant, gave a brief power point presentation regarding the background and process of the EIR and was there to answer any questions the Commission had regarding this process.

Commissioner Bergh asked when this document was made public, and in regards to the extraction process, what percentage of the metals will be injected back.

Ajit Venkatraman, Vice President of Engineering and Operations for SIMBOL, stated that the extraction process has an over 95 percent efficiency and these certain minerals will be extracted and the reset will be injected back into the brine and returned.

Commissioner Bergh noticed they are asking IID for power, can they get the power from the plant itself?

Jurg Heuberger, Energy Source Representative, the answer to Commissioner Bergh’s question is “no”, the plant runs at a 49.9 megawatt (net) at 55 gross and would not want to be in competition with IID.

Commissioner Bergh also asked about the noise; how many hours per day they would be in operation? If he is a resident around the area and is concerned about the cattle.

Mr. Heuberger stated that the nearest house is more than two miles away. They purchased a residence that was a mile away.

Commissioner Gaddis stated that he has had many people come up to him and ask about earthquake faults.

Mr. Heuberger introduced the team of Hudson Ranch so the Commission would know who to call on for questions.

Jim Minnick in response to Commissioner Gaddis’s question regarding earthquakes, a power point that was used at the Board of Supervisors for a nearby project and pointed out the fault lines.

Dwight Carey, Consultant, stated that there have been discussions recently about concerns over geothermal projects that typically are categorized as enhanced geothermal systems where geothermal projects are actively trying either to create or expand the geothermal reservoir underground. This project does not do that, it simply takes what’s there and take’s it back down in the ground at a depth of approximately 10,000 feet depending on the specifics of the reservoir. This project, as one of the conditions of approval, is specifically to join the seismic monitoring system that the Imperial County Public Works Department has so there is and will be a seismic monitoring system, or maybe two,
depends on what is needed at the time. Plus, the Conditional Use Permit requires that 75% be injected back in the reservoir.

Paul Walt, SIMBOL Representative, gave a brief power point presentation. Imperial Valley has been blessed with sunshine energy and minerals, there is nowhere else in the world where these type of resources are available. Imperial Valley would be a world leader, ahead of China, Argentina, and even Bolivia. In addition, we will have a big impact, employment, revenue to the County, and royalties.

Commissioner Castillo, how is your system going to be compatible with existing geothermal plants.

Mr. Walt stated that they are looking forward to working with the local geothermal plants.

Commissioner Kalin asked what they use the CO2 for.

Mr. Walt stated that they will use the CO2 for the making lithium chloride.

Carol Brutton, SIMBOL, stated that most of the traffic will be from McDonald Road East of Highway III were the majority of the truck traffic.

Jun Onaka, Economic, Employment Fiscal Impact Analysis, stated that he prepared the Fiscal Impact Study for the Hudson Ranch II project in 2010 and for the SIMBOL Calipatria Plant II this year. When the study was done from a physical point of view it's going to generate a substantial amount of property tax revenue for all the years of operation for the County General Fund, Library Fund and Fire Protection Fund. The number of construction workers, employment impact would be half of what was analyzed in the report. The economic and employment impact is expenditures from construction and when you combine them, the total impact is 85 million dollars. There will be an estimated of 324 workers with benefits, and there will be 90 for the operation of the plant.

Commissioner Hargrave asked Mr. Onaka, how do they explain the initial presentation with the number of workers estimated.

Mr. Onaka used the initial number that was given to him by Ms. Tina Willis.

Assistant Director Minnick stated that he just wanted to mention about the sales tax that both projects under Condition 30 for Hudson Ranch II and S-27 for SIMBOL Calipatria Plant II must pay the takes locally.

Chairman Schaffner asked the applicant if he read the project and agrees with staff's recommendation.

Jurg Heuberger agrees with staff's recommendation and thanked County staff and the Commission for their time.

Commissioner Hargrave asked Mr. Heuberger after the 30 year of the project, what happens after that.

Mr. Heuberger stated that they will ask for an extension and/or restore it back to its original state.

Chairman Schaffner opened the public portion of the hearing and advised the speakers that they will get three minutes to speak, Commissioner Cabanas called the names.

Public Speakers:

Christina Caro, Lozeau Drury, Oakland, submitted a comment letter and some issues were raised e.g., seismic disturbance, and there was an issue with the geothermal injection. This project has four injections wells planned, the nearest residence is 1.4 miles away from the project site and let's not forget the townsite of Niland its 2.3 miles away. The EIR has not done any analysis at all of those impacts on local communities; they can cause structural damage, discomfort and also disturb animals, including cattle. They request that the Planning Commission not certify the EIR that has failed to analyze
potentially significant impacts and also failed to comply with information disclosure. Nox emissions are being Mitigated which is true, and the EIR does contain some Mitigation Measures, but an incorrect model was used in modeling what the actual pounds per day and are the model used was not intended for geothermal projects and asked the County to go back and implement additional mitigations, and re-circulate the EIR.

Commissioner Schaffner asked Ms. Caro if they were the ones who turned in the huge comment letter, and he asked why it was turned in five minutes before the meeting.

Ms. Caro apologized about that the comment letter was submitted in this manner.

**Juan Zarate**, Conty Resident, stated that he sent a letter to Mr. Villa on August 16th of this year, which he did not see any comments on that. Mr. Zarate read the letter into the record. Mr. Zarate stated Niland needs to benefit from these types of projects; also, during construction, there should be signs up with contact information for the community if there are any questions, especially with dust control concerns.

Chairman Schaffner closed the public portion of the meeting and turned it over to the Commission for any questions and/or a motion.

Assistant Director Minnick proposed a five minute break.

Chairman Schaffner called meeting back to order.

Katie Turner, County Counsel, wanted to respond to the comment letters received today from the Department of Transportation and Lozeau Drury and stated that all of the issues in the letters have been addressed and was legally published and landowners notified. Also this item was noticed in our local papers. Also, this Law Firm had the opportunity to comment, during the first NOP comment period which was April 2011, first public meeting which was May 2011, the second NOP comment period which was April 2012, during the second public comment period which was April 2012 and during the 50 day DEIR comment period and did not receive anything from them until this morning specifically addressing these issues.

Commissioner Castillo stated that is there any way they can prevent “document dumping” since the Commission cannot review the whole comment letter.

Katie Turner stated that case law and Judges are not in favor of document dumping. Technically, under CEQA law, we cannot exclude or ignore the letter, if the Commission needs a break or hear this project on a later date they can certainly do that.

Christina Willis addressed the concerns of the Lozeau Drury comment letter one by one.

Chairman Schaffner closed the public portion of the hearing and turned it over to the Commission for questions, comments and/or motion.

A. Motion made by Commissioner Bergh and seconded by Commissioner Cabanas and carried on the affirmative vote of Commissioners Schaffner (Yes), Kalin (Yes), Bergh (Yes), Cabanas (Yes), Castillo (Yes), Gaddis (Yes), Hargrave, and Niver (Yes) to certify the Final EIR (FEIR), adopt the Findings of Fact, and the Resolution, approve the Mitigation Monitoring and Reporting Program, WSA, adopt the Findings of Fact and the Resolution, and make the De Minimus Findings that the proposed project will not individually or cumulatively have an adverse effect on the Fish and Wildlife Resources, as defined in Section 711.2 of the Fish and Game Code, other than the required mitigation measures identified herein as amended and presented by staff.

3. Consideration of Geothermal Permit #10-0002 as submitted by Hudson Ranch II with supporting documentation for geothermal development activities within the Geothermal Overlay Zone and Known Geothermal Resource Area (KGRA). Hudson Ranch II is a geothermal flash power plant
in which the applicant is proposing to construct and operate a 49.9 MW (net) geothermal power plant and well field to be located southwest of the Townsite of Niland, west of English Road, east of Davis Road, and south of McDonald Road, on property described as a portion of the North ½ of Section 19, Township 11 South, Range 14 East, SBB&M. Assessor’s Parcel Number 022-010-009-000 (333 West McDonald Road, Calipatria), (Supervisory District #4). The Commission took the following action:

A. Motion made by Commissioner Bergh and seconded by Commissioner Cabanas and carried on the affirmative vote of Commissioners Schaffner (Yes), Kalin (Yes), Bergh (Yes), Cabanas (Yes), Castillo (Yes), Gaddis (Yes), Hargrave, and Niver (Yes) to certify the Final Environmental Impact Report (FEIR), adopt the Findings of Fact and the Resolution, approve the Mitigation Monitoring and Reporting Program (MM&RP) WSA, adopt the Findings of Fact and Resolution, and approve Geothermal Permit #10-0002 for the Geothermal Power Plant, subject to all conditions and authorize the Planning & Development Services Department to sign the Conditional Use Permit contract upon its receipt from the Permittee, adopt the Findings of Fact and the Resolution as amended and presented by staff.

4. Consideration of Conditional Use Permit #12-0005 as submitted by SIMBOL, Calipatria Project II with supporting documentation for a commercial lithium carbonate extraction plant within the Geothermal Overlay Zone and Known Geothermal Resource Area, to be located southwest of the Townsite of Niland, west of English Road, east of Davis Road, and south of McDonald Road, on property described as a portion of the North ½ of Section 19, Township 11 South, Range 14 East, SBB&M. Assessor’s Parcel Numbers 022-010-009-000 (303 West McDonald Road, Calipatria), (Supervisory District #4). The Commission took the following action:

A. Motion made by Commissioner Bergh and seconded by Commissioner Cabanas and carried on the affirmative vote of Commissioners Schaffner (Yes), Kalin (Yes), Bergh (Yes), Cabanas (Yes), Castillo (Yes), Gaddis (Yes), Hargrave (Yes), and Niver (Yes) to certify the Final Environmental Impact Report (FEIR), adopt the Findings of Fact and the Resolution, approve the Mitigation Monitoring and Reporting Program (MM&RP), WSA, adopt the Findings of Fact and Resolution, approve Conditional Use Permit #12-0005 for the Mineral Extraction Plant, subject to all conditions and authorize the Planning & Development Services Department to sign the Conditional Use Permit contract upon its receipt from the Permittee, and adopt the Findings and the Resolution as amended and presented by staff.

Assistant Director Minnick, stated that this project stands approved; however, if you or anyone in the public wishes to appeal this decision it must be done by filing the appropriate appeal and fees with the Imperial County Planning & Development Services within 10 calendar days.

Assistant Director Minnick read the project into the record and asked the Commission if they had any questions for him.

5. Consideration of Time Extension for Conditional Use Permit #07-0019 as submitted by Hudson Ranch I LLC, requesting to extend the duration of the permit as stated in Condition G-10 to 30 years from this date or at least from the date of Commercial Operation or Certificate of Occupancy versus date of Recodernation. Hudson Ranch I Geothermal Power Plant (HR-1) is currently an operational 49.9 Megawatt (MW) Plant, on property described as Portion of North ½ of Section 24, South ½ of Northeast ¼ of Section 13, Township 11 South, Range 13 East, SBB&M, Assessor’s Parcel Number 020-100-026-000. (409 West McDonald Road, Calipatria), (Supervisory District #2). The Commission took the following action:

Chairman Schaffer asked the applicant if they agree on staff’s recommendation.

Jurg Heuberger, Energy Source Representative stated that he agrees on staff’s recommendation and thank the Commission for hearing the project.
Chairman Schaffner opened the project up to the public, no public comments were made, then closed the public portion of the hearing and turned it over to the Commission for questions, comments and/or motion.

A. Motion made by Commissioner Kalin and seconded by Commissioner Niver and carried on the affirmative vote of Commissioners Schaffner (Yes), Kalin (Yes), Bergh (Yes), Cabanas (Yes), Castillo (Yes), Gaddis (Yes), Hargrave (Yes), and Niver (Yes) to make the findings that the requested action to extend the term of the Conditional Use Permit #07-0019 from 30 years starting at recordation date to 30 years starting from September 12, 2012 is clearly a minor modification to the permitting; it was envisioned as an option within the original language, and clearly meets the intent of PRC 15301(b), Class I Categorical Exemption. Furthermore, the intent of the original Conditional Use Permit was to allow for 30 years as the plant’s operational life and Approve the modification of Conditional Use Permit #07-0019 of Condition G-10 to state that the Time Limit of this Conditional Use Permit is 30 Years from September 12, 2012 and not 30 years from the date of recordation as staff’s recommendations.

Commissioner Castillo asked what was the original recording date of this Conditional Use Permit.

Assistant Director Minnick stated that there was an administrative change and the original recording date was October 10, 2007, due to financing purposes.

Assistant Director Minnick, stated that this project stands approved; however, if you or anyone in the public wishes to appeal this decision it must be done by filing the appropriate appeal and fees with the Imperial County Planning & Development Services within 10 calendar days.

V. Public Comments: None
VI. Commissioner Comments: None
VII. Planning Director Comments: None
VII. Adjournment – Meeting was adjourned at 10:27 a.m.

The next meeting of the Planning Commission will be held on October 10, 2012 at 9:00 A.M.

Submitted by: Rudy Schaffner,
Chairman of the Planning Commission

Attest:

Armando G. Villa, AICP, Secretary
Imperial County Planning Commission

Maria Scoville
PC Recording Clerk