

APPENDIX B: APPLICATION MATERIALS

THIS PAGE
INTENTIONALLY
LEFT BLANK

APPENDIX B-1:
IMPERIAL COUNTY
CONDITIONAL USE PERMIT #08-0003

THIS PAGE
INTENTIONALLY
LEFT BLANK

1
2 When Recorded Return to:

3 _____
4 Imperial County Planning & Development
5 Services Department
6 801 Main Street
7 El Centro California 92243
8
9
10
11

12 CONDITIONAL USE PERMIT CUP#08-0003
13 (U.S. Gypsum water well for Quarry expansion project)
14 (Assessors Parcel Number 033-020-009-000)
15 Approved by Board of Supervisors on March 18, 2008

16 This Agreement is made and entered into on June 18th 2008, by and
17 between the U.S. Gypsum hereinafter referred to as "Permittee", and the
18 COUNTY OF IMPERIAL, a political subdivision of the State of California,
19 hereinafter referred to as "COUNTY".

20 WHEREAS, Permittee is the owner, lessee or successor in interest in
21 certain land in Imperial County identified as N2 OF SW4 of NW4 OF SE4 & SW4
22 OF NW4 TR 49 T13 R9 also known as Assessor's Parcel Number 033-020-
23 009-000 and;

24 WHEREAS, Permittee has applied to the "County" for permission to
25 construct and operate a water well for the processing and manufacturing of ore
26 from the Quarry mining site

27 WHEREAS, Permittee will not operate any type of use other than specified
28 herein and;

 WHEREAS, County, after a review of the project, after preparation and
circulation of the Environmental Impact Report State Clearinghouse No.
2001121133 (SCH), after a noticed public hearing before the Planning

1 Commission, dated _____, after a noticed public hearing before the
2 Board of Supervisors, dated _____, agreed to issue Conditional
3 Use Permit #08-0003, subject to all of the following conditions:

4 NOW THEREFORE, the County issues CUP #08-0003 subject to all of the
5 following conditions.

6
7 **GENERAL CONDITIONS:**

8 The "GENERAL CONDITIONS" are shown by the letter "G". These conditions are
9 conditions that are either routinely and commonly included in all Conditional Use Permits
10 as "standardized" conditions and/or are conditions that the Imperial County Planning
11 Commission has established as a requirement on all CUP's for consistent application and
12 enforcement. The Permittee is advised that the General Conditions are as applicable as
13 the other types of conditions or mitigation measures within this Conditional Use Permit!

14
15 **G-1 GENERAL LAW:**

16 The Permittee shall comply with all local, state and/or federal laws, rules,
17 regulations, ordinances, and/or standards as they may pertain to the project
18 whether specified herein or not.

19
20 **G-2 PERMITS/LICENSES:**

21 The Permittee shall obtain any and all local, state and/or federal permits,
22 licenses, and/or other approvals for the construction and/or operation of the
23 Project. This shall include, but not be limited to, local requirements for Health,
24 Building, Sanitation, Air Pollution Control District (APCD), Public Works, Imperial
25 County Sheriff, Fire/Office of Emergency Services, Regional Water Quality
26 Control Board, among others. Permittee shall likewise comply with all such
27 permit requirements and shall submit a copy of such additional permits and/or
28 licenses to the Planning & Development Services Department within 30 days of
receipt, as deemed necessary.

29
30 **G-3 CONDITION PRIORITY:**

31 This Project shall be constructed and operated as described in the U.S. Gypsum
32 Conditional Use Permit, all environmental mitigation monitoring measures
33 identified in the U.S. Gypsum Mitigation Monitoring and Reporting Program
34 (MMRP), and as specified in these conditions. If there is a difference, or a
35 discrepancy between this CUP, or any other permit or law, the most stringent
36 condition/law shall govern.

37
38 **G-4 EIR EIS MITIGATION MEASURES**

1
2 Permittee shall undertake all mitigation measures identified in the U.S. Gypsum
3 Mitigation Monitoring Reporting Program (MMRP) and implement these
4 measures as applicable.

5
6
7
8
9
10
11
12 **G-5 RECORDATION:**

13 This permit shall **not be effective** until it is recorded at the Imperial County
14 Recorder's Office, and payment of the recordation fee shall be the responsibility
15 of the Permittee. If the Permittee fails to pay the recordation fee within six (6)
16 months from the date of approval, and/or this permit is not recorded within 180
17 days from the date of approval, this permit may be deemed null and void, without
18 notice having to be provided to Permittee. Permittee may request a written
19 extension by filing such a request with the Planning & Development Services
20 Director (Director) at least 30 days prior to the original 180-day expiration. The
21 Director may approve an extension for a period not to exceed 180 days. An
22 extension may not be granted if the request for an extension is filed after the
23 expiration date.

24
25
26
27
28 **G-6 INDEMNIFICATION:**

As a condition of this permit, Permittee agrees to defend, indemnify, hold
harmless, and release the County, its agents, officers, attorneys, and employees
from any claim, action, or proceeding brought against any of them, the purpose
of which is to attack, set aside, void, or annul the permit or adoption of the
environmental document which accompanies it. This indemnification obligation
shall include, but not be limited to, damages, costs, expenses, attorneys fees, or
expert witness fees that may be asserted by any person or entity, including the
Permittee, arising out of or in connection with the approval of this permit, whether
there is concurrent, passive or active negligence on the part of the County, its
agents, officers, attorneys, or employees. This indemnification shall include
Permittee's actions involved in construction, operation or abandonment of the
permitted activities.

G-7 TIME LIMIT:

Unless otherwise specified within the specific conditions, this permit shall be
limited to a maximum of twenty years (20) years from the recordation of the CUP.
If an extension is necessary, or is requested beyond twenty (20) years, the
Permittee shall file a written extension request at least sixty (60) days prior to the
expiration of the Permit. Such an extension request shall include the appropriate
extension fee, pursuant to the Land Use Ordinance, Title 9, Division 9, Section
90901.03 et. seq., General Planning fees. If the original approval was granted by
the Planning Commission and/or the Board of Supervisors, such an extension
shall only be considered by the approving body, after a noticed public hearing.
Nothing stated or implied within this permit shall constitute a guarantee that an

1 extension will be granted. An extension may not be granted if the project is in
2 violation of any one or all of the conditions or if there is a history of non-
3 compliance with the permit conditions.

4 **G-8 COSTS:**

5 As allowed by and consistent with applicable laws, Permittee shall pay any and
6 all amounts determined by the County Planning and Development Services
7 Department to defray any and all cost(s) for the review of studies/reports, field
8 investigations, and other activities directly related to this Conditional Use Permit,
9 County Ordinance or any other applicable law as provided in the Land Use
10 Ordinance, Section 90901.03 et. seq., General Planning fees. Further, as
11 allowed by and consistent with applicable laws, County Departments, directly
12 involved in the monitoring/enforcement of this project may bill Permittee under
13 this provision; however, said billing shall only be through and with the approval of
14 the Planning and Development Services Department.

15 **G-9 INSPECTION AND RIGHT OF ENTRY:**

16 The County reserves the right to enter the premises to make appropriate
17 inspection(s) and to determine if the condition(s) of this permit are complied with.
18 The owner or operator shall allow authorized County representative(s) access
19 upon the presentation of credentials and other documents as may be required by
20 law to:

- 21 (a) Enter at reasonable times upon the owner's or operator's premises where
22 the permitted facilities are located, or where records must be kept under the
23 conditions of the permit;
- 24 (b) Have access to and ability to copy, at reasonable times, any records that
25 must be kept under the conditions of the permit;
- 26 (c) Inspect at reasonable times any facilities, equipment, or operations
27 regulated or required under the permit.

28 **G-10 NOTICE OF REGULATORY ACTIVITIES:**

Permittee shall provide to the Planning and Development Services Department
copies of all notices and/or submissions to any State, Federal, or local regulatory
authority initiated by Permittee concerning or relating to operations under this
permit, concurrently with submission to these authorities.

G-11 REPORTS:

Permittee shall submit to the Planning and Development Services Department,
the following reports;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. An "Annual Compliance Report", which shall be filed with the Planning and Development Services Department and describes Permittee's efforts to comply with the CUP, and all other permits, and shall be in a format acceptable to the Planning and Development Services Director. The Annual Compliance Report shall be submitted no later than May 1st of each year, and shall cover the preceding 12 month period ending December 31 of each year.
2. The County may also request, in writing, "Special Monitoring Reports" containing such documents and information from Permittee, and at such intervals and containing such information as the Planning and Development Services Director, Health Officer or Public Works Director (individually or collectively) deem necessary for monitoring the Site. Special Reports shall be submitted by Permittee no later than the date specified by the written request.
3. Upon prior notice to and consultation with Permittee, County may also require special report(s)/studies to be prepared by an outside consultant retained by the County, and the cost of such report to be paid by Permittee. The Permittee shall be allowed to comment on the scope of work, and shall cooperate with such consultant.

G-12 HEALTH HAZARD:

If the County Health Officer determines that a significant health hazard exists to the public, the Health Officer may require appropriate measures and the Permittee shall implement such measures to mitigate the health hazard. If the hazard to the public is determined to be imminent, such measures may be imposed immediately and may include temporary suspension of permitted activities, the measures imposed by the County Health Officer shall not prohibit the Permittee from requesting a special Planning Commission meeting, provided the Permittee bears all related costs.

G-13 ENFORCEMENT AND TERMINATION:

- (a) If the Planning and Development Services Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning and Development Services Department determines that the permitted activities constitute a nuisance, the Planning and Development Services Director shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order.
- (b) If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall

1
2 be referred to the Planning Commission for permit modification, suspension,
or termination, or to the appropriate enforcement authority.

- 3 (c) If the Planning Commission determines to proceed with modification,
4 suspension or termination of the CUP, the Planning Commission shall give
5 at least thirty (30) days notice to Permittee, and such other public notice as
required by law, of its intention to do so.

6 The notice shall contain:

- 7 1. The time and place of the hearing;
8 2. A statement as to the reasons why the Planning Commission proposes
to modify, suspend, or terminate the CUP;
9 3. Any proposed modification to the CUP and other information which the
10 Planning Commission considers necessary or desirable to inform
Permittee the public of the nature of the hearing.

- 11 (d) Any action by the Planning Commission shall be documented by written
12 findings. In the event the Planning Commission seeks to suspend or revoke
13 the CUP, the Commission must specifically find that such revocation is
14 necessary because prior governmental efforts to get Permittee to comply
15 with the terms and conditions of the permit have failed and Permittee has
16 failed to demonstrate to the Planning Commission's satisfaction the
willingness or ability to comply with the terms and conditions of the use
17 permit, or to abate a nuisance, or to prevent an immediate threat to the
18 public health or safety.

- 19 (e) After the hearing concerning enforcement, modification or termination of the
20 CUP, the Planning Commission shall make its determination within seventy-
21 five (75) days, unless Permittee and the Planning and Development
22 Services Director agree by mutual written consent to extend the time for
23 decision.

24 **G-14 VIOLATIONS OF REPORTING REQUIREMENTS:**

25 Failure by Permittee to timely submit (as determined by the applicable agency)
26 any report pursuant to Condition G-11, or any permit, permit application, or report
27 to another permitting agency shall be a violation of this permit which may be
28 enforced pursuant to Condition G-13 or at the discretion of the Planning
Commission. The County may also as a penalty impose a double cost charge for
the review of any reports which are not timely submitted.

29 **G-15 NUISANCE PER SE/NUISANCE:**

30 As between the County and the Permittee, any violation of this permit may be a
"nuisance per se". The County may enforce the terms and conditions of this

1 permit in accordance with its Codified Ordinances and/or State law. The
2 provisions of this paragraph shall not apply to any claim of nuisance per se
3 brought by a third party.

4 In addition, Permittee shall not be permitted to maintain a "nuisance", which is
5 anything which: (1) is injurious to health, or is indecent or offensive to the
6 senses, or an obstruction to the free use of property, so as to interfere with the
7 comfortable enjoyment of life or property, and/or (2) affects at the same time an
8 entire community or neighborhood, or any considerable number of persons,
9 although the extent of the annoyance or damage inflicted upon individuals may
be unequal, and/or (3) occurs during or as a result of the handling of any waste
fuel. Any nuisance not abated within 48 hours after notice by Imperial County
Planning and Development Services Department may also result up to a \$5,000
per day fine for each day of violation.

10 **G-16 PERMITS OF OTHER AGENCIES INCORPORATED:**

11 Permits granted by other governmental agencies in connection with the Project
12 are incorporated herein by reference.

13 **G-17 SPECIFICITY:**

14 The issuance of this permit does not authorize the Permittee to construct or
15 operate the project in violation of any state, federal, local law nor beyond the
16 specified boundaries of the project as shown the application/project
17 description/permit, nor shall this permit allow any accessory or ancillary use not
specified herein. This permit does not provide any prescriptive right or use to the
Permittee for future addition and or modifications to the project.

18 **G-18 INVALID CONDITIONS:**

19 If any section, subsection, sentence, clause, or phrase of the CUP is for any
20 reason held to be invalid, by a Court of proper jurisdiction, the County may
21 consider other similar conditions as it may deem necessary to address the
negative impacts which were intended to be mitigated by any single condition
which must be changed due to invalidity.

22 **G-19 MINOR AMENDMENTS:**

23 The Planning and Development Services Director may approve minor
24 modifications to the permit to accommodate minor changes or modifications to
25 the design, construction, and/or operation of the project provided said changes
26 are necessary for the project to meet other laws, regulations, codes, or
27 conditions of the CUP and provided further, that such changes will not result in
any additional environmental impacts. The term minor shall be as interpreted by
the Director.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

G-20 CHANGE OF OWNER/OPERATOR:

In the event the ownership of the site or the operation of the site transfers from the current Permittee to a new successor Permittee, the successor Permittee shall be bound by all terms and conditions of this Permit as if said successor was the original Permittee. The current Permittee shall inform the County Planning and Development Services Department in writing at least 60 days prior to any such transfer. In the event of a change, the new Owner/Operator shall file with the Department, via certified mail, a letter stating that they are fully aware of all conditions and acknowledge that they will adhere to all. If this Permit or any subservient or associated permit requires financial surety, the transfer of this Permit shall not be effective until the new Permittee has requisite surety on file. Furthermore, existing surety shall not be released until replacement surety is accepted by Imperial County.

G-21 RESPONSIBLE AGENT:

All operations shall be conducted under the direction of a responsible agent. Permittee shall maintain on file with the Planning and Development Services Department the name and phone number of the responsible agent for the site. This agent shall ensure that appropriate personnel and equipment shall be available to respond to on-site emergencies. A back-up name shall also be provided, and a phone number for 24-hour emergency contact shall also be on file. If there are other users, the same information (as applicable) required from the Permittee shall also be made available to the County from such other users.

G-22 GENERAL WELFARE:

All construction shall be conducted with consistency with all laws, conditions, adopted County Ordinance(s) and the Uniform Codes, as adopted by the County, for Seismic Zone 4, and in compliance with State and Federal regulations. Permits (electric, plumbing, grading, among others) shall be secured for all facilities prior to any construction being commenced. The project must be built so as to be in harmony with the area and not conflict with the public health, safety, comfort, convenience, and general welfare.

G-23 APPROVALS AND CONDITIONS SUBSEQUENT TO GRANTING PERMIT:

A. Permittee acceptance of this permit shall be deemed to constitute agreement with the terms and conditions contained herein. Where a requirement is imposed in this permit that Permittee conduct a monitoring program, and where the County has reserved the right to impose or modify conditions with which the Permittee must comply based on data obtained there from, or where Permittee is required to prepare specific plans for County approval and

1
2
3
4
5
6
disagreement arises, the Permittee, operator and/or agent, the Planning and
Development Services Director or other affected party, to be determined by the
Planning and Development Services Director, may request that a hearing be
conducted before the Planning Commission whereby they may state the
requirements which will implement the applicable conditions as intended herein.
Upon receipt of a request, the Planning Commission shall conduct a hearing and
make a written determination. The Planning Commission may request support
and advice from a technical advisory committee.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
B. The Permittee shall be responsible for carrying out all duties set forth in the
Mitigation Monitoring and Reporting program (MMRP) adopted for this proposed
project. The Permittee's compliance with said mitigation monitoring reporting
program shall be subject to review and approval by the County and those
agencies and officials designated in the program, or any consultant(s) approved
by the County to enforce the conditions of the mitigation monitoring program. It
shall be the responsibility of the Permittee to reimburse the County for all
expenses incurred in the implementation of the mitigation monitoring program
including any necessary enforcement actions.

G-24 LIGHTING:

On-site lighting shall be shielded and/or directed in such a way as to eliminate
and reduce off-site glare particularly towards roadways. The shielding shall
confine the direct rays to the site. Lighting shall be installed to provide a safe
working environment in and around the facility and/or equipment meeting OSHA
standards.

G-25 DEFINITIONS:

In the event of a dispute the meaning(s) or the intent of any word(s), phrase(s)
and/or conditions or sections herein shall be determined by the Imperial County
Planning Commission.

G-26 PERMIT TERMINATION This permit may be null and void if any
information submitted by the Permittee is found false.

Remainder of Page Intentionally Left Blank

1
2
3 **SPECIFIC CONDITIONS:**

4 *The "SPECIFIC CONDITIONS" are shown by the letter "S". These conditions are*
5 *conditions "site specific" to this Conditional Use Permit. The Permittee is advised that the*
6 *Specific Conditions are as applicable as the other types of conditions or mitigation*
7 *measures within this Conditional Use Permit, or within that are incorporated herein by*
8 *reference and whether included hereinafter or not!*

9 **S-1** The Conditional Use Permit (CUP) allows the Permittee to draw a
10 maximum of 26 acre foot of groundwater per year for purposes in conjunction
11 with the gypsum operation and Reclamation Plan 08-0003 and to comply with
12 APCD's Fugitive Dust Regulations.

13 **S-2.** Water from the well shall not be used, sold, given, exported, or
14 transported off the herein Permittee's quarry site.

15 **S-3.** A flow meter shall be installed and sealed by a California State Licensed
16 Water Well Drilling Contractor. Permittee shall submit an annual report to the
17 Department of Public Works and the Planning & Development Services
18 Department indicating the yearly amount of water extracted from the well. A
19 photograph (dated and signed) of the flow meter readings shall be included in the
20 annual report. The report shall be received within thirty (30) days following the
21 anniversary date of the issuance of the Conditional Use Permit. In the event of a
22 flow meter failure, the Permittee shall be required to cease the water well
23 operation and notify the Planning & Development Services Department. The
24 Permittee may be allowed to temporarily substitute the flow meter for an
25 alternative measuring device, at the approval of the Planning & Development
26 Services Department. In this case two (2) separate reports shall be submitted as
27 stipulated herein.

28 **S-4.** Any replacement water well shall be constructed by a California Licensed
Driller in accordance with California Department of Water Resources Bulletin 74-
81 and 74-90 (including any subsequent revisions), and with the Imperial County
Water Well Ordinance, Section 92101.00, et seq.

Permittee shall submit copies of the "Report of Completion" (as required by
California Water Code, Section 13751), by a California Licensed Driller on the
construction of any water well replaced. Copies of this report shall be submitted
to Environmental Health Services, Planning & Development Services
Department, and Public Works within thirty (30) days of the construction or
destruction of the well, this report shall include:

1. A description of the exact location of the well;
2. A detailed log of the well;
3. A description of the type and depth of casings;
4. Details of perforation;
5. The methods used for sealing off surface or contaminated waters;

6. Methods for preventing contaminated waters from one aquifer to mix with another aquifer;
7. Name of person who constructed the well.

S-5. This permit does not authorize Permittee to "slant drill" under adjoining property.

S-6. Should the water well be "abandoned" at any time for more than 360 consecutive days, Permittee shall seal/cap the well according to standards set by the State and in a manner acceptable to the County Building Official. (Abandonment shall mean as follows :)

ABANDONMENT: A well is deemed "abandoned" when it has not been used for one (1) year. An owner may have the well deemed "inactive" by filling a written notice with the Department stating his/her intentions to use the well under specific conditions and/or time frames. As evidence of his/her intentions, the conditions contained in Bulletin 74-81 (Sec. 21) shall be met. Any well that is open or whose services/operating equipment (e.g. pumps/motors/pipes, etc.) has been removed shall be deemed abandoned.

S-7. Permittee shall properly destroy any well on the property if replaced or abandoned. The well shall be destroyed according to State standards and in a manner acceptable to the County Building Official. A copy of the well driller's report by a California State Licensed Water Well Drilling Contractor shall be sent to the Department of Public Works and the Planning & Development Services Department within thirty days following the destruction of the water well.

S-8. Permittee shall construct the water well at the specific location shown on the site plan. If an alternate location on the property for the water well is desired, Permittee shall submit a revised site plan for review and approval by Environmental Health Services and the Planning & Development Services Department prior to construction of the water well.

S-9. The new water well shall be registered with the Department of Planning and Development Services to comply with the new Groundwater Ordinance. This Ordinance was enacted by the Board of Supervisors on August 6, 1996 for the purpose of preserving and managing groundwater resources in Imperial County.

S-10 FTHL Range-wide Management Strategy: USG will comply with the FTHL Range-wide Management Strategy, as revised, Standard Mitigation Measures when constructing Quarry Well #3 and the Quarry pipelines. Mitigation Measure 3.5-2

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

S-11 Permittee shall comply with all mitigation measures identified in the adopted Mitigation Monitoring and Reporting Program for the United States Gypsum Company Expansion/Modernization Project, as applicable.

Remainder of Page left intentionally blank

1
2 **NOW THEREFORE**, County hereby issues Conditional Use Permit #08-
3 0003, Permittee hereby accepts such permit upon the terms and conditions set
4 forth herein:

5 **IN WITNESS THEREOF**, the parties hereto have executed this
6 Agreement the day and year first written.


7
8 **PERMITTEE:**

9 By: 
10 Representative of U.S. Gypsum

11 *Lonnie R. Dyck*
PLANT MANAGER

6-18-2008
Date

12
13 **COUNTY OF IMPERIAL**, a political subdivision of the STATE OF CALIFORNIA:

14 By: 
15 ~~JURG HEUBERGER, AICP, CEP~~
16 ~~Planning and Development Services Director~~

6-25-08
Date

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FOR PERMITTEE NOTARIZATION

STATE OF CALIFORNIA

COUNTY OF IMPERIAL} S.S.

On June 18, 2008 before me, Patricia A. Valenzuela, a Notary Public in and for said County and State, personally appeared Lonnie R. Dyck who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal



Signature Patricia A. Valenzuela

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

Title or Type of Document Conditional Use Permit
Number of Pages 15 Date of Document March 18, 2008
Signer(s) Other Than Named Above _____

1 **FOR COUNTY NOTARIZATION**

2
3 **STATE OF CALIFORNIA**

4 **COUNTY OF IMPERIAL} S.S.**

5
6 On JUNE 25, 2008 before me, Patricia A. Valenzuela
7 a Notary Public in and for said County and State, personally appeared Jurg
8 Heuberger, who proved to me on the basis of satisfactory evidence to be the
9 person~~(s)~~, whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and
10 acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~
11 authorized capacity~~(ies)~~, and that by his/~~her~~/~~their~~ signature~~(s)~~ on the instrument
12 the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed
13 the instrument.

14 I certify under PENALTY OF PERJURY under the laws of the State of California
15 that the foregoing paragraph is true and correct.

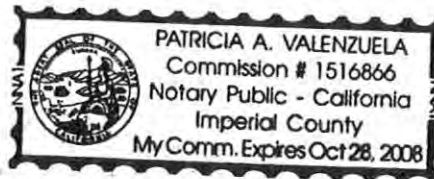
16 WITNESS my hand and official seal

17
18 Signature Patricia A. Valenzuela

19 ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of
20 this certificate to unauthorized document.

21 Title or Type of Document Conditional Use Permit
22 Number of Pages 15 Date of Document June 18, 2008
23 Signer(s) Other Than Named Above _____

24 CUP agreement Draft Final water well



United States Gypsum Company
 550 W. Adams
 Chicago, Illinois 60661-3676
 (312) 436-4000

REMITTANCE ADVICE

No. 100292435

Date : 06-13-2008

Vendor Name : IMPERIAL COUNTY RECORD

Vendor No. : 104133

INVOICE NO.	INVOICE DATE	DESCRIPTION	DISCOUNT AMOUNT	NET AMOUNT
CUP08-0002	10-JUN-08	301 PLC	0.00	10.00
CUP08-0003	10-JUN-08	301 PLC	0.00	49.00
CUP08-0004	10-JUN-08	301 PLC	0.00	61.00
TOTAL			0.00	120.00

DETACH BEFORE CASHING

THIS CHECK HAS A TRUE PAPER MACHINE WATERMARK. HOLD AT AN ANGLE TO VIEW. THE WORD VOID WILL APPEAR IF THIS CHECK IS COPIED IN ANY MANNER.



United States Gypsum Company
 550 W. Adams
 Chicago, Illinois 60661-3676
 (312) 436-4000



Controlled Disbursement
 Bank of America, N.A.
 Atlanta, Dekalb County, Georgia

64-1278
 611 GA

No. 100292435

Date 13-JUN-08

Pay: *****One Hundred Twenty Dollars And 00 Cents

\$ *****120.00

To The Order Of:

IMPERIAL COUNTY RECORDER - CLERK
 940 W MAIN STREET
 EL CENTRO, CA 92243

SIGNATURE AREA HAS A DISAPPEARING BACKGROUND

Karen L. Deets
 Authorized Signature

⑈ 100292435⑈ ⑆061112788⑆ 335 900 0935⑈

THE BACK SIDE OF THIS CHECK HAS THE USG LOGO PRINTED IN HEAT SENSITIVE INK. RUB FINGER ON INK AND IT WILL DISAPPEAR

APPENDIX B-2: APPLICATION LETTER

THIS PAGE
INTENTIONALLY
LEFT BLANK



RECEIVED

JUL 13 2021

**IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES**

June 15, 2021

Jim Minnick, Director
Planning & Development Services
County of Imperial
801 Main Street
El Centro, CA 92243

Subject: USG Fish Creek Quarry, Well No. 3, Conditional Use Permit (CUP)

Dear Mr. Minnick:

In late 2019, United States Gypsum Company ("USG") submitted an application (the "Application") to the County and deposited funds for the required fees for a conditional use permit ("CUP") for new water well and associated pipeline ("Quarry Well No. 3") on a private parcel (APN 033-020-009-000) located approximately three miles northeast of USG's Fish Creek Quarry ("Quarry"). The water produced by Quarry Well No. 3 will be used by USG for processing purposes at the Quarry, including dust suppression and transplanting of desert plant species during reclamation, and may also provide a supply of potable water for use by employees. The water will be transported to the Quarry via a proposed ten-inch diameter underground pipeline that will run along the adjacent USG tramway right-of-way (the "Pipeline").

Quarry Well No. 3 will replace an existing well (Quarry Well No. 2) that no longer produces a sufficient amount of water to meet USG's needs. Currently, water needed for Quarry operations is being transported to the site daily via rail tank car on the existing tramway. The water originates from wells near the community of Ocotillo that is piped to USG's Plaster City Plant (the "Plant") and then transported to the Quarry.

A copy of the Application, including a figure labeled "Exhibit D" that depicts the proposed location of Quarry Well No. 3 and the Pipeline in relation to the Quarry, is attached hereto as Exhibit 1. A more detailed and updated description of the project is attached hereto as Exhibit 2.

The balance of this letter provides additional background information concerning the Application and proposes that a supplemental environmental impact report be prepared pursuant to the requirements of the California Environmental Quality Act ("CEQA").

BACKGROUND

A water well for Quarry operations was permitted in 1983 under CUP No. 635-83 for a maximum withdrawal of 7,000 gallons per day (Quarry Well No. 1). The well was drilled in basin fill on the eastern side of the wash. The water was non-potable (due to high dissolved solids) and was used

exclusively for dust suppression. Consequently, the Quarry has historically received potable water for drinking and sanitary uses via a narrow-gauge railroad tank car from the Plant.

Production from Quarry Well No. 1 declined due to incrustation and became unusable. Therefore, a second well (Quarry Well No. 2) was drilled in 1993 to replace the original well pursuant to CUP No. 635-83, which was re-issued for the new well. However, water production from Quarry Well No. 2 declined steadily over time.

Quarry Well No. 2 has been rehabilitated without a significant improvement in water production. Currently, Quarry Well No. 2 produces approximately 4,800 gallons per day (gpd), which is insufficient to meet USG's current need for Quarry operations. Therefore, USG proposes to replace existing Quarry Well No. 2 with proposed Quarry Well No. 3 on USG-owned land located approximately 3 miles northeast of the Quarry. Quarry Well No. 3 would also replace an existing test well that was installed in 2001 at the proposed location of Quarry Well No. 3.

Previous Environmental Impact Report

Proposed Quarry Well No. 3 is part of a larger project involving the expansion and modernization of USG's Plant and Quarry as described in the Environmental Impact Report/Environmental Impact Statement for the United States Gypsum Company Expansion/Modernization Project (the "EIR"), which was certified by the Imperial County Board of Supervisors (the "Board") on March 18, 2008 pursuant to the requirements of CEQA. As such, the potential environmental impacts of proposed Quarry Well No. 3 were previously evaluated in the EIR.

Previous CUP Approval

On March 18, 2008, the Board approved a Conditional Use Permit for Quarry Well No. 3 in Case No. CUP-08-0003 (see recorded document 2008-018433, attached hereto as Exhibit 3). However, USG did not initiate or obtain construction permits for Quarry Well No. 3 within the time period set forth in Imperial County Code section 90203.13. Therefore, CUP-08-0003 has expired.

The requested conditional use permit for Quarry Well No. 3 would essentially reinstate CUP-08-0003. The location and characteristics of the proposed Quarry Well No. 3 have not changed since it was approved in 2008, and remain as described in the EIR and in the original application for CUP-08-0003.

Pending Application for Approvals from the California Department of Fish and Wildlife

The EIR noted that the USG would be required to obtain a Lake and Streambed Alteration Agreement ("LSAA") from the California Department of Fish and Wildlife ("CDFW") for the Quarry expansion and identified CDFW as a responsible agency for the project under CEQA.

In 2014, USG filed an application with the CDFW for approval of a LSAA and related permits for the expansion of the Quarry as described in the EIR (Notification 1600-2014-0067-R6). Subsequently, during a meeting on March 25, 2019, CDFW staff informed USG that additional information concerning the potential environmental impacts of Quarry operations on desert

pupfish habitat and Peninsular bighorn sheep will need to be incorporated into the EIR. Among other things, this additional information includes certain biological studies that had been prepared after County certification of the EIR in 2008 in connection with the NEPA process for certain federal approvals that were required for Quarry expansion.

In recognition of the fact that USG would be filing an application with the County for approval of a new conditional use permit for proposed Quarry Well No. 3, CDFW staff proposed that the County (rather than CDFW) prepare a supplemental environmental impact report ("SEIR") that would serve as the CEQA document for purposes of both the requested conditional use permit and the applications that are currently pending with the CDFW. Under this approach, the County would retain its status as the lead agency for the overall project for CEQA purposes, and CDFW would continue in its role as a responsible agency.

SUPPLEMENTAL EIR

In accordance with the CDFW's proposal, USG hereby requests that the County, as the lead agency under CEQA, prepare a SEIR in connection with USG's Application, and that the County consult with CDFW (as a responsible agency) to ensure that the SEIR also serves CDFW's purposes. It is USG's understanding that, as a result of USG's voluntary request that the County prepare a SEIR, there will be no need to refer this matter to the County's Environmental Review Committee for its recommendation as to the appropriate CEQA document.

USG further understands that it will be responsible for all required fees and costs associated with the preparation of the SEIR. In this regard, USG has reviewed the proposal from Benchmark Resources for preparation of the SEIR, a copy of which is attached hereto as Exhibit 4. USG approves this proposal and hereby requests that Benchmark Resources be selected by the County to prepare the SEIR without first obtaining competitive bids from other consultants.

Thank you for your consideration.

Sincerely,



Luis Carrazco
Plant Manager

Exhibits

- 1 – Application (including Exhibit D)
- 2 – Expanded/updated project description
- 3 - CUP-08-0003 (recorded document 2008-018433)
- 4 – Benchmark Proposal

cc: Patricia Valenzuela

THIS PAGE
INTENTIONALLY
LEFT BLANK