PROJECT REPORT

TO: PLANNING COMMISSION **AGENDA DATE** December 16, 2021

FROM: Planning & Development Services Dept. **AGENDA TIME** 9:00 am/No. 2a-2g

Water Supply Assessment, GPA #18-0004 ZC #18-0005 CUP #18-0025

PROJECT TYPE: CUP #21-0002 Desert Valley Company Monofill SUPERVISOR DIST. #4

LOCATION: 3301 W. Hwy 86, Brawley, CA APN: 019-100-004-000

PARCEL SIZE: +/- 640 Acres

GENERAL PLAN (existing) Recreation/ Open Space GENERAL PLAN (proposed) Special Purpose Facility

ZONE (existing) S-2 (Open Space/Preservation) ZONE (proposed) M-2 (Medium Industrial)

GENERAL PLAN FINDINGS ☒ CONSISTENT ☐ INCONSISTENT ☐ MAY BE/FINDINGS

PLANNING COMMISSION DECISION: HEARING DATE: 11/18/2021

☐ APPROVED ☐ DENIED ☐ OTHER

PLANNING DIRECTORS DECISION: HEARING DATE:

☐ APPROVED ☐ DENIED ☐ OTHER

ENVIROMENTAL EVALUATION COMMITTEE DECISION: HEARING DATE: 01/09/2020

INITIAL STUDY: #18-0020

☐ NEGATIVE DECLARATION ☐ MITIGATED NEG. DECLARATION ☒ EIR

DEPARTMENTAL REPORTS / APPROVALS:

PUBLIC WORKS	☒ NONE	☐ ATTACHED
AG / APCD	☒ NONE	☐ ATTACHED
E.H.S.	☒ NONE	☐ ATTACHED
FIRE / OES	☒ NONE	☐ ATTACHED

OTHER None

REQUESTED ACTION:

Staff recommends that the Planning Commission hold a public hearing and hear all proponents and opponents of the proposed project, and advise the Board of Supervisors to approve the following actions:

A. Resolution for the Approval of the Water Supply Assessment with Findings;
B. Resolution for the Certification of the Final Environmental Impact Report (FEIR) SCH #2019120605 and Adopt Findings;
C. Resolution for the Adoption of the Mitigation Monitoring and Reporting Program (MM&RP);
D. Resolution for the Approval of General Plan Amendment (GPA) #18-0004;
E. Ordinance Update for Division 25, Chapter 70 and Resolution for the Approval of Zone Change (ZC) #18-0005;
F. Resolution for the Approval of Conditional Use Permit (CUP) #18-0025 with conditions on the Desert Valley Company Monofill Facility Expansion Project (Cell 4) Project; and
G. Resolution for the Approval of Conditional Use Permit (CUP) #21-0002 with conditions for the Desert Valley Company Monofill Facility Expansion Project (Cell 4) Project.

STAFF REPORT
PLANNING COMMISSION MEETING
December 16, 2021

Subject:

A. Water Supply Assessment with Findings;
B. Final Environmental Impact Report (FEIR) (State Clearinghouse Number [SCH. #2019120605] for Desert Valley Company Monofill Facility Expansion Project (Cell 4), Findings of Fact and Resolution,
C. Mitigation Monitoring and Reporting Program (MM&RP) and Resolution,
D. Desert Valley Company Monofill Facility Expansion Project (Cell 4) General Plan Amendment (GPA #18-0004) and Resolution,
E. Desert Valley Company Monofill Facility Expansion Project (Cell 4) Zone Change (ZC #18-0005) and Resolution,
F. Desert Valley Company Monofill Facility Expansion Project (Cell 4) Conditional Use Permit (CUP) #18-0025, Resolutions and attached Findings; and
G. Desert Valley Company Monofill Facility Expansion Project (Cell 4) Conditional Use Permit (CUP) #21-0002, Resolutions and attached Findings.

Project Name: **Desert Valley Company Monofill (DVCM) Facility Expansion Project (Cell 4)**

Applicant: **CalEnergy Operating Corporation**
3301 W. Hwy 86,
Brawley, CA 92227

Project Location:
The project is being proposed at 3301 W. Hwy 86, Brawley, immediately west of the existing monofill on private lands north of Superstition Hills and south of State Route 86 (Highway 86), approximately 12 miles west of City of Westmorland and 4 miles south of the Salton Sea in County of Imperial. The parcel is legally described as Section 33 Township 12 South, Range 11 East, and is further identified as Assessor's Parcel Number 019-100-004-000.

Project Summary:
CalEnergy (Applicant) is requesting an amendment to CUP #05-0020 (CUP Amendment #18-0025), a General Plan Amendment (GPA #18-0004), and a Zone Change (ZC #18-0005) to facilitate the expansion of the existing Desert Valley Company Monofill (DVCM) Facility for the development of a new waste storage cell (Cell 4) and associated facilities. They are also seeking to obtain a Water Well (CUP #21-0002) for a new on-site water

well. The proposed Project would expand the existing facility by approximately 80 acres and would provide an additional 2.6 million cubic yards of disposal capacity. Expected maximum operational demand for groundwater is 11 acre-feet per year (AFY) on the proposed water well. Historically, groundwater use at the DVC has ranged from 3.58 to 8.02 AFY.

Environment Setting:

The site and surrounding areas contain limited man-made disturbances and a power transmission line and maintenance road crossing Sections 27, 28 and 34, less than a mile from Section 33. Surrounding properties exhibit largely open space features, sparse vegetation, seasonal washes and no man-made projects or uses except for the existing DVC Monofill facility and State Route 86.

Land Use Analysis:

The project site is zoned S-2 (Open Space/Preservation) per Zoning Map #70 and the land use designation is Recreation/Open Space under the Imperial County General Plan. The proposed Solid Waste Facility use, including any associated facilities, are allowed in the M-2 zone with the approval of a Conditional Use Permit per Title 9, Division 5, Chapter 15, Section 90516.02.

Surrounding Land Use Ordinance:

DIRECTION	CURRENT LAND USE	ZONING	GENERAL PLAN
Project Site	Vacant and Existing Monofill Facility	S-2 (Open Space/Preservation and M-2 (Medium Industrial)	Recreation Open Space and Special Purpose Facility
North	Road to Hwy 86	A-2 (General Agriculture)	Recreation Open Space
South	Vacant	BLM	Recreation Open Space
East	Vacant	M-2 (Medium Industrial)	Recreation Open Space
West	Vacant	M-2 (Medium Industrial)	Recreation Open Space

Environmental Review:

The proposed project has been environmentally reviewed and assessed with an Environmental Impact Report (EIR) SCH # 2019120605. Mitigation measures have been

included to reduce impacts to biological resources, geology and soils, transportation and utilities and service systems, to less than significant based on each set of significance criteria. No significant and unavoidable impacts to any environmental resources would occur. The project Draft EIR, SCH # 2019120605, was publically circulated from July 26, 2021 thru September 14, 2021.

RECOMMENDED ACTIONS

Staff recommends that the Planning Commission hold a public hearing and hear all proponents and opponents of the proposed project, and advise the Board of Supervisors to approve the following actions:

A. Resolution for the Approval of the Water Supply Assessment with Findings;
B. Resolution for the Certification of the Final Environmental Impact Report (FEIR) SCH #2019120605 and Adopt Findings;
C. Resolution for the Adoption of the Mitigation Monitoring and Reporting Program (MM&RP);
D. Resolution for the Approval of General Plan Amendment (GPA) #18-0004;
E. Ordinance Update for Division 25, Chapter 70 and Resolution for the Approval of Zone Change (ZC) #18-0005;
F. Resolution for the Approval of Conditional Use Permit (CUP) #18-0025 with conditions on the Desert Valley Company Monofill Facility Expansion Project (Cell 4) Project; and
G. Resolution for the Approval of Conditional Use Permit (CUP) #21-0002 with conditions on the Desert Valley Company Monofill Facility Expansion Project (Cell 4) Project.

Prepared By: Diana Robinson, Planning Division Manager
Planning & Development Services

Reviewed By: Michael Abraham, AICP, Assistant Director
Planning & Development Services

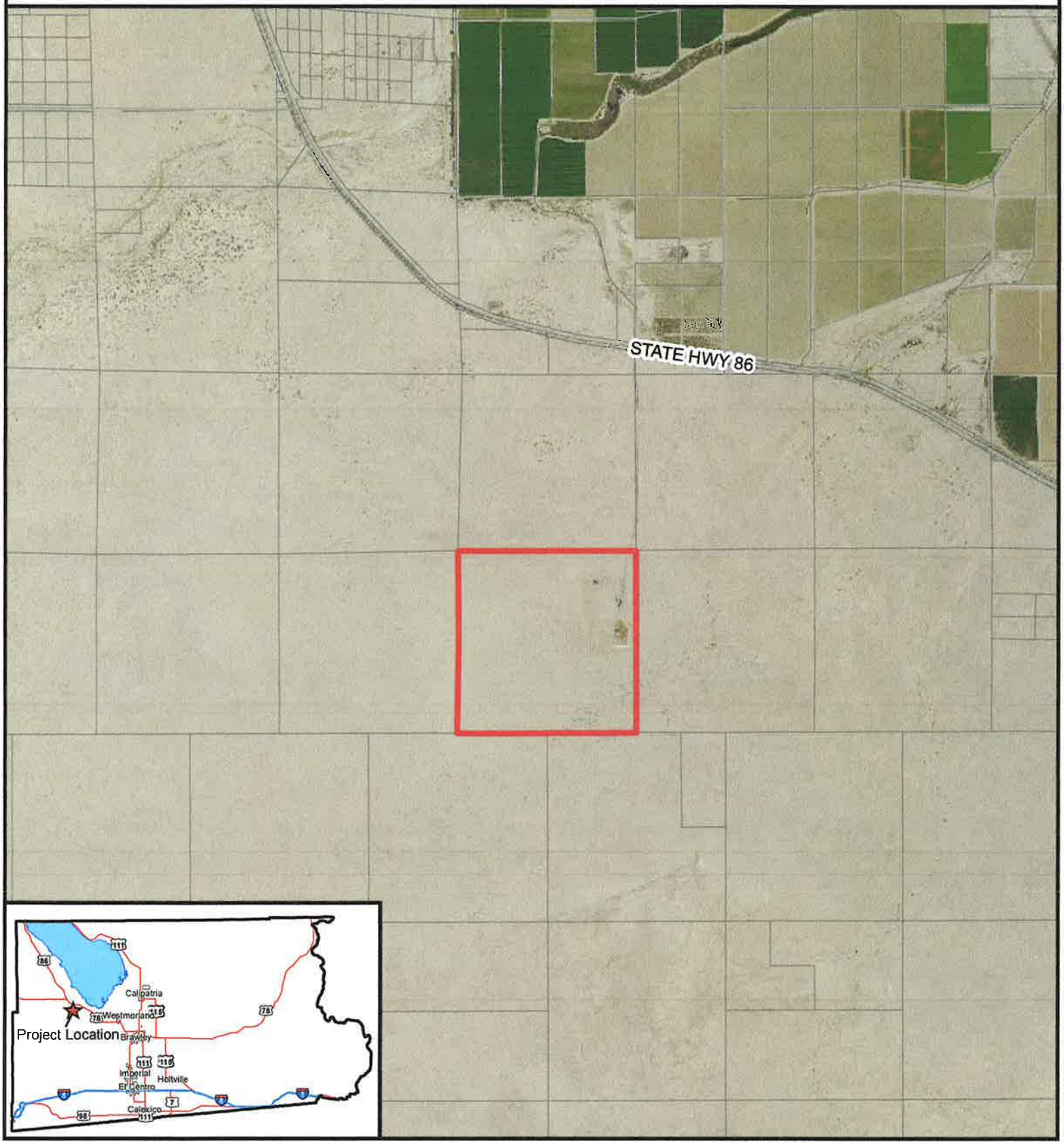
Approved By: Jim Minnick, Director
Planning & Development Services

Attachments:

Attachment A. Location Map
Attachment B. Site Plan
Attachment C: Resolution for the Water Supply Assessment & Findings
Attachment D. Resolution for the Final Environmental Impact Report & Findings
Attachment E: Resolution for the Mitigation Monitoring and Reporting Program
Attachment F: Resolution for General Plan Amendment GPA #18-0004
Attachment G: Resolution for Zone Change ZC #18-0005 Ordinance
Attachment H: Resolution for Conditional Use Permit CUP #18-0025
Attachment I: Resolution for Conditional Use Permit CUP #21-0002

Attachment A: Location Map

PROJECT LOCATION MAP

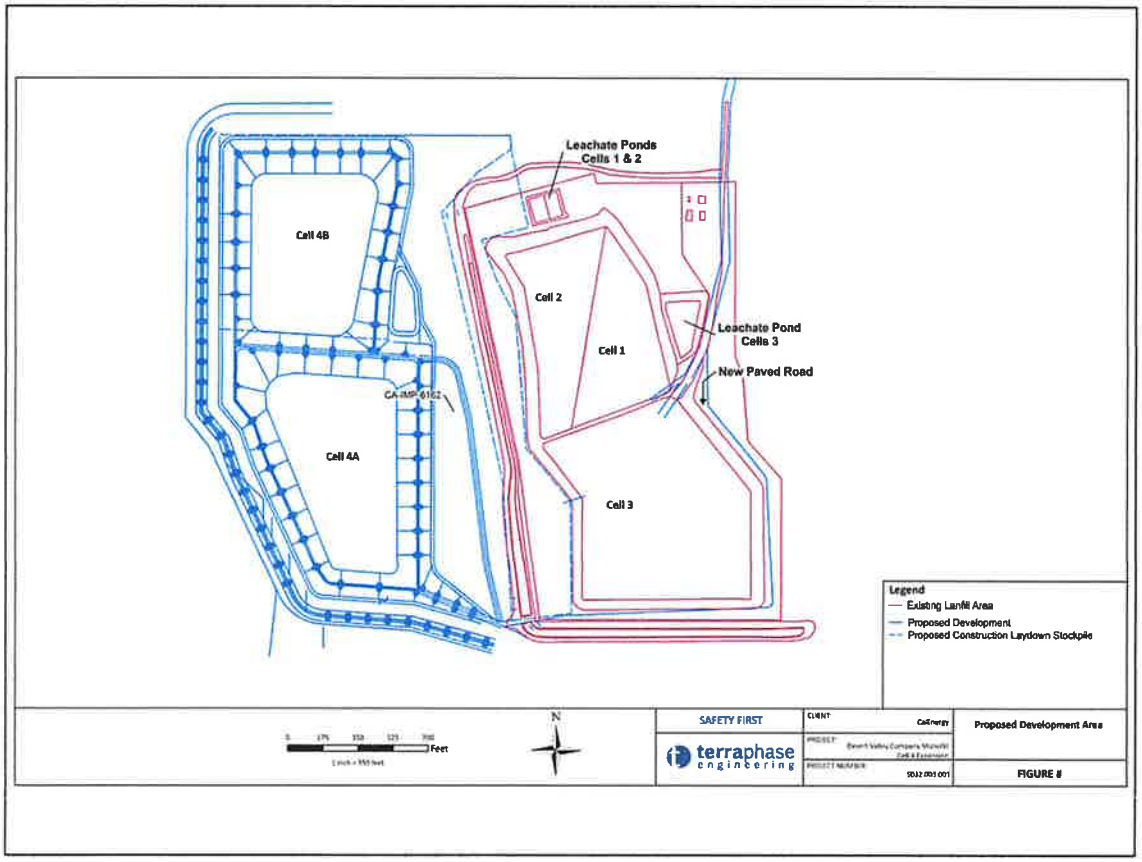


DESERT VALLEY COMPANY (DVC)
MONOFILL EXPANSION PROJECT (CELL 4)
GPA #18-0004 / ZC #18-0005
CUP #18-0025 / IS #18-0020
APN #019-100-004

Project Parcel
Centerline
Parcels

N

Attachment B: Site Plan



SOURCE: Terraphase, 2020.

Proposed Site Plan
Desert Valley Company Monofill Expansion Project, Cell 4
Figure 4-1

Attachment C: Resolution for the Water Supply Assessment & Findings

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, RECOMMENDING APPROVAL OF THE WATER SUPPLY ASSESSEMENT (WSA) FOR THE DESERT VALLEY COMPANY MONOFILL (DVCM) EXPANSION (CELL 4) PROJECT TO THE BOARD OF SUPERVISORS

WHEREAS, the DVCM Expansion (Cell 4) Project qualifies as a "project" under the Water Code triggering the need to prepare a Water Supply Assessment because it proposed to a demand of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project; and/or because it is a proposed industrial use occupying more than 40 acres of land. The Water Supply Assessment (WSA) has been prepared in accordance with Water Code 10912(c)(4);

WHEREAS, the Imperial County Board of Supervisors has the authority and responsibility for approving the WSA;

WHEREAS, the duty to prepare a Water Supply Assessment ("WSA") falls to the County of Imperial ("County") because Imperial Irrigation District ("IID") is not a public water system within the meaning of the Water Code 10912(c);

WHEREAS, the County, in consultation with an expert engineering firm and IID prepared the WSA, which includes any and all WSA addendums;

WHEREAS, the County has independently reviewed and considered the WSA and the entire administrative record, and;

WHEREAS, public notice of said application has been given, and the Planning Commission has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at a public hearing held with respect to this item on December 16, 2021.

NOW THEREFORE, the Planning Commission of the County of Imperial **DOES HEREBY RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS BASED ON THE FOLLOWING FINDS FOR THE WSA** as follows:

SECTION 1. The Planning Commission has considered the proposed DVCM Expansion (Cell 4) Project's WSA prior to making a decision to recommend approval of the proposed WSA. The Planning Commission finds and determines that the WSA is adequate and prepared in accordance with the requirements of Water Code, Section 10912(c)(4) and the analysis of the WSA demonstrates that the total projected water supplies, determined to be available by the County for the Project during normal, single dry, and multiple dry water years, will meet the projected water demand associated with the proposed project and based upon the following findings and determinations.

SECTION 2. That in accordance with State Planning and Zoning law, the County Planning Commission makes the following findings for the approval of the DVCM Expansion (Cell 4) Project:

1. The DVC Monofill Facility is located within the Ocotillo-Clark Valley Groundwater Basin (Basin Number 7-25), as defined by DWR (2004). The total surface area is approximately 223,000 acres (348 square miles), while the estimated groundwater storage capacity of the Ocotillo Valley part of the groundwater basin is 5,800,000 acre-feet (DWR, 2004).

2. The estimated rate of recharge in the Ocotillo Valley part of the groundwater basin is 1,100 acre-feet per year (DWR, 2004). The currently-permitted maximum use of 8.5 acre-feet per year at the DVC Monofill Facility is just slightly more than one percent of the available sustainable supply in the groundwater basin.

3. The total water demand for the project will be 75 to 100 acre-feet during the year that Cell 4a is constructed and 30 to 40 acre-feet during the six-month period while Cell 3 is being closed. The on-going operational water use for dust control and cell operation will be up to 11 acre-feet/year, while the on-going potable water use will continue to be 0.12 acre-feet/year. Based on these values, the maximum annual water use would be up to 111.12 acre-feet/year during the year that Cell 4a is constructed. The on-going long-term water demand, once cell construction and closure construction are completed, will be up to 11.12 acre-feet/year.

4. The long-term sustainable supply in the basin is in the range of 800 acre-feet per year. The maximum single-year water demand for the Project of 111.12 acre-feet per year during Cell 4a construction and the ongoing water demand of 11.12 acre-feet per year are both well below the long-term sustainable supply of 800 acre-feet per year. Thus, there is more than adequate groundwater to supply the Project water needs during normal, single dry, and multiple dry year periods.

5. Evaluation of conditions in the groundwater basin indicates that the long-term sustainable supply is approximately 800 acre-feet per year. Consideration of groundwater levels during wet and dry periods demonstrates that the amount of water available does not vary appreciably with climatic cycles. Therefore, there will be sufficient water available for the Project during single dry year and multiple dry year periods over at least the next 20 years.

6. To minimize drawdown and reduced production from the existing well, any new well drilled at the Facility should be located at least 150 feet from the existing well.

7. The potential production from and location of a new well at the site do not affect the findings of this Water Supply Assessment that sufficient water would be

available for the Project during single dry year and multiple dry year periods over at least the next 20 years.

NOW, THEREFORE, based on the above findings, the Planning Commission of the County of Imperial **DOES HEREBY** recommend to the Board of Supervisors to approve the proposed Water Supply Assessment (WSA) for the Project.

Rudy Schaffner, Chairman
Imperial County Planning Commission

I hereby certify that the preceding resolution was taken by the Planning Commission at a meeting conducted on **December 16, 2021**, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

James Minnick, Secretary of the
Planning Commission/Director of Planning

S:\AllUsers\APN\019\100\004\GPA18-0004; ZC18-0005; CUP18-0025\PC\GPA18-0004 PC Resolution WSA.docx

Water Supply Assessment
For the Desert Valley Company Monofill Facility
Cell 4 Waste Storage Area
Imperial County, California

Prepared for:

CalEnergy Operating Company
7030 Gentry Road
Calipatria, CA 92233

Prepared by:

Dr. Andrew A. Kopania
California Professional Geologist No. 4711
California Certified Hydrogeologist No. HG31
EMKO Environmental, Inc.
551 Lakecrest Drive
El Dorado Hills, California 95762

July 10, 2019

Water Supply Assessment
For the Desert Valley Company Monofill Facility
Cell 4 Waste Storage Area
Imperial County, California

TABLE OF CONTENTS

LIST OF TABLES

LIST OF FIGURES

Water Supply Assessment
For the Desert Valley Company Monofill Facility
Cell 4 Waste Storage Area
Imperial County, California

1.0 INTRODUCTION

This Water Supply Assessment has been prepared for CalEnergy Operating Company of Calipatria, California for the proposed Cell 4 Waste Storage Area (the "Project") at the Desert Valley Company (DVC) Monofill Facility in Imperial County, California (Figure 1). The overall Project entails a modification to DVC's Conditional Use Permit (CUP) No. 05-0020 issued by Imperial County for the Monofill Facility located at 3301 Highway 86 in Brawley, California. The facility is permitted to receive Class 2 non-hazardous waste streams and by-products from CalEnergy's geothermal power plant operations in Imperial County, California under an existing Solid Waste Facility Permit.

Water Code Sections 10910 through 10915 were amended by Senate Bill 610 (SB 610) in 2002. SB 610 requires that under specific circumstances, as detailed below, an assessment of available water supplies must be conducted. The purpose of the assessment is to determine if available water supplies are sufficient to serve the demand generated by the Project, as well as the reasonably foreseeable demand in the region over the next 20 years under average normal year, single dry year, and multiple dry year conditions. Water Code Section 10910 was further amended by SB 1262 on September 24, 2016 to require a Water Supply Assessment to include additional information regarding the groundwater basin designation and adjacent water systems. This report provides the information required for a Water Supply Assessment (WSA), as described in the October 2003 *Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001 to Assist Water Suppliers, Cities, and Counties in Integrating Water and Land Use Planning*, published by the California Department of Water Resources (DWR Guidebook) along with the additional information required by SB 1262.

2.0 PROJECT DESCRIPTION

The DVC Monofill Facility includes two closed cells, Cell 1 and Cell 2, and a currently active cell, Cell 3. The Project involves the permitting and construction of a new cell, Cell 4. CUP No. 05-0020 limits the facility to Class 2 waste disposal activities such that only certain geothermal non-hazardous waste streams and byproducts generated by CalEnergy's geothermal power plant operations in Imperial County, California can be accepted. Solid Waste Facility Permit No. 13-AA-0022 specifies the wastes that can be accepted at the facility:

- Geothermal drilling muds and cuttings;
- Geothermal filter cake;
- Soils contaminated with geothermal material; and
- Incidental plastic sheeting (truck bed liners)/materials.

The above wastes must be generated within Imperial County and no materials from outside of the County are permitted to be disposed at the facility.

Cell 4 will be constructed in two phases. Each phase will have a capacity of approximately 1.3 million cubic yards, which is comparable to the size of Cell 3. Phase 1 of Cell 4 (also referred to as Cell 4a) will begin receiving waste when the existing Cell 3 reaches or nears its capacity, at which time Cell 3 will be closed. Phase 2 of Cell 4 (also referred to as Cell 4b) will have a capacity similar to Phase 1 and will be constructed when there is a demand for additional waste storage capacity. Phase 1 is estimated to have a surface area of approximately 25 acres. The preferred location for Cell 4 is within Section 33. However, an alternative location in the south half of Section 27 has also been considered.

The projected life of each phase of Cell 4 is based on the estimated design capacity of approximately 1.3 million cubic yards and a projected disposal rate of approximately 60,000 tons per year. The geothermal waste materials disposed of at the site have an empirically determined airspace utilization factor of 1.32 tons per cubic yard. Thus, the annual volumetric disposal rate is approximately 45,455 cubic yards per year. The approximate life span of each phase of Cell 4 is 28.6 years, based on the total volumetric capacity of 1.3 million cubic yards divided by the average annual disposal rate of 45,455 cubic yards per year.

The design and construction of Cell 4 will be consistent with Cell 3, where the liner system will be designed to Class I hazardous waste standards and other criteria will conform to Class 2 designated waste standards and other permit requirements. Other aspects of the proposed Cell 4 waste storage area, such as operations, maintenance, monitoring, recordkeeping and financial assurance, will also be consistent with those of the existing DVC Monofill Facility

Waste material composition and disposal operations for Cell 4 will be the same as for existing Cell 3. Water would be supplied from an existing groundwater well that is currently used for site water needs. Project water demand would include water needed for dust control and construction (e.g. soil compaction) during installation of Cell 4, closure of existing Cell 3, and for subsequent operation of Cell 4.

3.0 WATER SUPPLY PLANNING UNDER SB 610 and SB 1262

SB 610, effective January 1, 2002, amends Sections 10910 through 10915 of the Water Code by requiring preparation of a WSA for development projects subject to CEQA and other criteria, as discussed below. SB 610 also amends Section 10631 of the Water Code, which relates to Urban Water Management Plans (UWMPs). The WSA process under SB 610 is designed to rely on the information typically contained in UWMPs, where available.

On September 24, 2016, SB 1262 further amended Section 10910 of the Water Code to require additional information related to adjacent public water systems and the status of the groundwater basin. These amendments provide additional consistency with the Sustainable Groundwater Management Act of 2014, as discussed further in Section 4.4.

The first steps in the WSA process are to determine whether SB 610 applies to the proposed Project. If so, then documentation of available water supplies, anticipated Project demand, and the sufficiency of supplies must be conducted. These issues are summarized by the following questions, as outlined in the DWR Guidebook:

1. Is the proposed Project subject to CEQA?
2. Is the proposed Project a "Project" under SB 610?
3. Is there a public water system that will service the proposed Project?
4. Is there a current UWMP that accounts for the project demand?
5. Is groundwater a component of the supplies for the Project?
6. Are there sufficient supplies to serve the Project over the next twenty years?

Each of these issues are discussed in the following sections as they relate to the proposed Project.

3.1 Is the Proposed Project Subject to CEQA?

The first step in the SB 610 process is to determine whether the proposed project is subject to CEQA. Water Code Section 10910(a) states that any city or county that determines that an application meets the definition of "project", per Water Code Section 10912 (see Section 3.2, below), and is subject to CEQA, shall prepare a water supply assessment for the project. CEQA applies to projects requiring issuance of a discretionary permit by a public agency, projects undertaken by a public agency, or projects funded by a public agency. The proposed modifications to CUP No. 05-0020, as described in Section 2.0, require discretionary approval by Imperial County, a public

agency. Therefore, the Project is subject to CEQA. This WSA has been prepared to support the environmental review that will be conducted by Imperial County under CEQA.

3.2 Is the Proposed Project a "Project" Under SB 610?

The second step in the SB 610 process is to determine if the proposed Project meets the definition of "project" under Water Code Section 10912(a). Under Section 10912(a) a "project" is defined as meeting any of the following criteria:

1. a proposed residential development of more than 500 dwelling units;
2. a proposed shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space;
3. a proposed commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space;
4. a proposed hotel or motel, or both, having more than 500 rooms;
5. a proposed industrial, manufacturing, or processing plant, or industrial park planned to house more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area;
6. a mixed-use project that includes one or more of the projects defined above; or
7. a project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.

The proposed construction of Phase 1 of Cell 4 would occupy approximately 50 acres. As a result, the Project will include an industrial site that is larger than 40 acres and thus this WSA is being prepared in accordance with category 5, above.

3.3 Is There a Public Water System That Will Service the Proposed Project?

Section 10912(c) of the Water Code identifies a public water system as a system for the provision of piped water to the public for human consumption that has 3,000 or more service connections. There are no public water systems that serve the Project site, or that are located within more than one mile of the Project site. As described below, the project provides its own water needs through an onsite groundwater well. In addition, the Project will not be connected to a water system, such that the Project would not result in an existing water system becoming a public water system as a result of the project (per SB 1262 modifications to Water Code Section 10910(b)).

3.4 Is There a Current Urban Water Management Plan That Accounts for the Project Demand?

The Water Code requires that all public water systems providing water for municipal purposes to more than 3,000 customers, or supplying more than 3,000 acre feet per year, must prepare an UWMP. The DWR Guidebook (page iii) states that SB 610 repeatedly refers to the UWMP as a planning document that can be used to meet the standards set forth in the statute, and that UWMPs act as a foundation to fulfill the requirements of the statute. There are no public water systems within the vicinity of the Proposed project, and thus there is not an UWMP that accounts for the Project demand.

Since there is no UWMP for the Project area, this WSA is based upon available and relevant information, including public records, the technical studies and assessments submitted with the application for the proposed project, and other relevant documents, as cited in Section 8.0. Since this WSA has been prepared for use by the CEQA lead agency, this document includes an evaluation of whether the total projected water supplies, determined to be available during normal, single dry, and multiple dry water years during a 20-year projection, will meet the projected water demand associated with the proposed project, in addition to existing and planned future uses, including agricultural and manufacturing uses, in accordance with Water Code § 10910(c)(4). As noted in Section 2.0, however, at the projected disposal rates Phase 1 of Cell 4 is expected to have a life span of over 28 years once it is constructed.

3.5 Is Groundwater a Component of the Supplies for the Project?

Water Code Section 10910(f), paragraphs 1 through 5, must be addressed if groundwater is a source of supply for the proposed Project. The DVC Monofill Facility currently obtains water from an onsite supply well. The same well, or additional wells, are also anticipated to serve the water needs for Cell 4. Therefore, an assessment of groundwater conditions is included in this document.

Water Code Section 10910(f) paragraphs 1 through 5, as modified by SB 1262, state:

(f) If a water supply for a proposed project includes groundwater, the following additional information shall be included in the water supply assessment:

> (1) A review of any information contained in the urban water management plan relevant to the identified water supply for the proposed project.
>
> (2) (A) A description of any groundwater basin or basins from which the proposed project will be supplied. (B) For those basins for which a court or the board has adjudicated the rights to pump groundwater, a copy of the order or decree adopted by the court or the board and a description of the amount of groundwater the public water system, or the city or county if either is required to

comply with this part pursuant to subdivision (b), has the legal right to pump under the order or decree. (C) For a basin that has not been adjudicated that is a basin designated as high- or medium priority pursuant to Section 10722.4, information regarding the following: (i) Whether the department has identified the basin as being subject to critical conditions of overdraft pursuant to Section 12924; and (ii) If a groundwater sustainability agency has adopted a groundwater sustainability plan or has an approved alternative, a copy of that alternative or plan. (D) For a basin that has not been adjudicated that is a basin designated as low- or very-low priority pursuant to Section 10722.4, information as to whether the department has identified the basin or basins as overdrafted or has projected that the basin will become overdrafted if present management conditions continue, in the most current bulletin of the department that characterizes the condition of the groundwater basin, and a detailed description by the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), of the efforts being undertaken in the basin or basins to eliminate the long-term overdraft condition.

(3) A detailed description and analysis of the amount and location of groundwater pumped by the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), for the past five years from any groundwater basin from which the proposed project will be supplied. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(4) A detailed description and analysis of the amount and location of groundwater that is projected to be pumped by the public water system, or the city or county if either is required to comply with this part pursuant to subdivision (b), from any basin from which the proposed project will be supplied. The description and analysis shall be based on information that is reasonably available, including, but not limited to, historic use records.

(5) An analysis of the sufficiency of the groundwater from the basin or basins from which the proposed project will be supplied to meet the projected water demand associated with the proposed project. A water assessment shall not be required to include the information required by this paragraph if the public water system determines, as part of the review required by paragraph (1), that the sufficiency of groundwater necessary to meet the initial and projected water demand associated with the project was addressed in the description and analysis required by paragraph (4) of subdivision (b) of Section 10631.

Pursuant to paragraph 1, there is not an urban water management plan that addresses the Project demand, or the adjacent and surrounding properties, as discussed in Section 3.4. Therefore, the information and evaluations presented in this WSA are based primarily on other publicly-available reports and documents from the California Department of Water Resources, groundwater studies conducted for other sites and projects in the region, and site-specific groundwater studies previously conducted at the Project site.

Paragraph 2 is addressed in Section 4.1, below, including a description of the groundwater basin and groundwater conditions.

As previously discussed, there is not an urban water management plan that covers the project area. To address the items described in Paragraph 3, Section 5.0 presents available information regarding current and future water consumption at the Project site.

To address paragraph 4, Section 4.2 includes a discussion of the amount and location of groundwater pumping and recharge that may occur in the groundwater basin. Section 5.0 presents available information regarding current and future water consumption at the Project site.

The Paragraph 5 requirement to provide an analysis of the sufficiency of the groundwater basin to meet the projected water demand associated with the proposed project is addressed in Section 6.0, below.

3.6 Are There Sufficient Supplies to Serve the Project Over the Next Twenty Years?

Water Code Section 10910(c)(4) requires the WSA to "*include a discussion with regard to whether the total projected water supplies, determined to be available by the city or county for the project during normal, single dry, and multiple dry water years during a 20-year projection, will meet the projected water demand associated with the proposed project, in addition to existing and future planned uses, including agricultural and manufacturing uses.*"

The sufficiency of water supply for the proposed Project is addressed in Section 7.0, below.

4.0 PROJECT WATER SUPPLY

Water for existing operations at Cell 3 is provided by an onsite groundwater supply well. For the proposed Project, water would be supplied by the same well, or a new well or wells to be installed for the Project. Overall conditions within the groundwater basin are described in Section 4.1. Details regarding the existing supply well and volumes of water currently pumped are provided in Section 4.2. Section 4.3 identifies the available groundwater supply within the basin. The potential implications of the Sustainable Groundwater Management Act of 2014 and future regulatory requirements are discussed in Section 4.4, as required by SB 1262.

4.1 Groundwater Basin

The DVC Monofill Facility is located within the Ocotillo-Clark Valley Groundwater Basin (Basin Number 7-25), as defined by DWR (2004), as shown on Figure 2. The basin is bounded by the Santa Rosa Mountains to the north and northeast, Coyote Creek and Superstition Mountain faults to the west and south, and the Salton Sea and surface drainage divides to the east. The total surface area is approximately 223,000 acres (348 square miles), while the estimated groundwater storage capacity of the Ocotillo Valley part of the groundwater basin is 5,800,000 acre-feet (DWR, 2004). Clark Valley drains toward Clark Dry Lake, to the northeast of Borrego Springs (see Figure 2). The eastern part of the groundwater basin drains toward the Salton Sea. The basin is an alluvial filled valley of stream, alluvial fan, lake and aeolian deposits[1] (DWR, 2004). Recharge occurs due to runoff from the mountains along the north and west sides of the basin and is estimated to be 1,200 acre-feet per year for the Clark Valley part of the basin and 1,100 acre-feet per year for the Ocotillo Valley part of the basin (DWR, 2004). The Ocotillo-Clark Valley Groundwater Basin has not been adjudicated.

Two aquifers are present within the Ocotillo Valley area of the groundwater basin (Todd Engineers, 2013). Northwest of San Felipe Creek, shallow groundwater is encountered at depths ranging from 40 feet to 90 feet below ground surface, with depths generally increasing toward the west (Ericsson-Grant, 2014). The depth to groundwater in the lower aquifer is approximately 100 feet deeper than that in the shallow aquifer (Ericsson-Grant, 2014). Thus, in the area west of San Felipe Creek, the shallow groundwater zone is generally unconfined and perched, while the lower aquifer is confined. Groundwater from the shallow zone may discharge at springs along Fish Creek and San Felipe Creek (Todd Engineers, 2013), suggesting that groundwater flow is toward the east-southeast in the western area of the Ocotillo Valley part of the groundwater basin. In the area of the basin west of San Felipe Creek, the total dissolved solids (TDS) content of the deeper groundwater ranges from 1,200 milligrams per liter (mg/L) to 1,800 mg/L, while the TDS in the shallow groundwater is reported to be three to four times higher (Ericsson-Grant, 2014).

At the Project site, shallow groundwater is present at depths ranging from 50 feet to 60 feet below ground surface (Balderman, 2002). The shallow groundwater flows toward the northeast with a hydraulic gradient of approximately 0.0164 ft/ft and at a velocity of approximately 3.86 feet per year (DVC, 2019). While the lower aquifer is not encountered until a depth of approximately 490 feet below ground surface, the static

[1] Aeolian deposits are those that are transported and deposited by wind, such as dune sands and wind-blown silt deposits.

water level is approximately 44 feet below ground surface, indicating that the lower aquifer is under confined conditions (UCM, 2005). The TDS in the deeper groundwater is approximately 1,200 mg/L (UCM, 2005), whereas the TDS in the shallow groundwater ranges from 3,500 mg/L to 11,000 mg/L (Balderman, 2002).

Groundwater from all areas of the Ocotillo Valley part of the groundwater basin ultimately discharges to the Salton Sea (DWR, 2004).

4.2 Existing Supply Well and Historic Water Volumes Pumped

In 2005, DVC installed a new water supply well for operation of Cell 3. The information provided below for the supply well is from UCM (2005). The well was drilled to a total depth of 605 feet and completed with 5-inch Schedule 80 PVC casing. The screened interval extends from 490 feet to 600 feet below ground surface, but the filter pack sand extends from 340 feet to 605 feet below ground surface. After installation, a series of pumping tests were conducted with a temporary pump set at various depths to identify the optimal placement of a permanent pump. Based on these tests, a three-horsepower, three-phase submersible pump was installed at a depth of 461 feet. The pump provides up to 38 gallons per minute of groundwater from the deeper aquifer zone. Two 5,000-gallon water tanks are used to store pumped groundwater before use onsite. The produced water from the supply well has a TDS level of 1,200 mg/L, a pH of 7.9, and a temperature of 95 degrees F (35 degrees C).

The water well attachment to CUP 05-0020 allows up to 8.5 acre-feet of groundwater per year to be produced from the supply well. Over the past decade, the maximum annual water use reported by DVC was 8.02 acre-feet in 2010. Since 2012, the peak annual water use has been 5.57 acre-feet while the minimum annual water use has been 3.58 acre-feet. The median water use over the past seven years has been 5.45 acre-feet per year.

4.3 Available Groundwater Supply

As stated in Section 4.1, the estimated groundwater storage capacity of the Ocotillo Valley part of the groundwater basin is 5,800,000 acre-feet (DWR, 2004). However, the actual volume of groundwater currently in storage is unknown. Historically, the largest groundwater user in the basin was Allegretti Farms, located approximately 10 miles west-northwest of the Project site (see Figure 2). From the 1950s into the 2010s, irrigation for agricultural production occurred on land areas ranging from 320 acres up to 2,000 acres (Todd Engineers, 2013). The estimated groundwater pumping ranged from over 10,000 acre-feet per year in 1978, decreasing to 2,800 acre-feet per year, on

average, from 1996 to 2009 (Todd Engineers, 2013). In 2010 and 2011, groundwater pumping decreased to 208 acre-feet and 224 acre-feet per year, respectively.

The Seville Solar Farm has largely supplanted agricultural use of the Allegretti Farms property (Ericsson-Grant, 2014). Estimated annual water demand for the property now ranges from 140 acre-feet to 300 acre-feet (Todd Engineers, 2013).
Groundwater levels have been monitored by the U.S. Geological Survey in a lower-aquifer well at Allegretti Farms since 1953 (USGS, 2019). Figure 3 shows the water levels in the well monitored by USGS. The data demonstrate that from 1953 to 2001, groundwater levels decreased from a depth of approximately -75 feet relative to the 1988 North American Vertical Datum (ft NAVD88) to about -240 ft NAVD88. However, as shown on Figure 3, since 2001 the groundwater level has recovered by approximately 35 feet.

As discussed in Section 4.1, the estimated rate of recharge in the Ocotillo Valley part of the groundwater basin is 1,100 acre-feet per year (DWR, 2004). Thus, pumping at rates in excess of this amount would result in overdraft and declining groundwater levels. The more recent groundwater pumping rates reported by Todd Engineers (2013) at the Allegretti Farms property are less than the estimated recharge rate, and may account for the slow recovery in groundwater levels. Based on the maximum projected water use for the Seville Solar Farm of 300 acre-feet per year (Todd Engineers, 2013), up to 800 acre-feet of groundwater per year are available for other users in the Ocotillo Valley part of the groundwater basin, without causing further overdraft. The currently-permitted maximum use of 8.5 acre-feet per year at the DVC Monofill Facility is just slightly more than one percent of the available sustainable supply in the groundwater basin.

4.4 Groundwater Sustainability

A series of three bills passed by the California legislature were signed by Governor Brown on September 16, 2014. These three bills, Assembly Bill (AB) 1739, SB 1168, and SB 1319, together comprise the Sustainable Groundwater Management Act of 2014 (SGMA). SGMA provides a structure under which local agencies are to develop a sustainable groundwater management program. SGMA focuses on basins or subbasins designated by DWR as high- or medium priority basins, and those with critical conditions of overdraft.

The Ocotillo-Clark Valley Groundwater Basin (DWR Basin 7-25) is classified as a very low priority basin with no significant declining groundwater levels (i.e. no evidence of critical conditions of overdraft), according to the SGMA Basin Prioritization Dashboard

(https://gis.water.ca.gov/app/bp2018-dashboard/p1/, accessed February 20, 2019). As such, the general requirements of SGMA do not apply to the basin.

In 1998, the County adopted, and in 2015 amended, a comprehensive Groundwater Management Ordinance to preserve and manage groundwater resources within the County (Imperial County, 1998). The Groundwater Ordinance, codified as Division 22 of Title 9 of the Imperial County Code, is implemented by the Planning Commission acting upon the direction of the Board of Supervisors. The Groundwater Ordinance provides the County with various regulatory tools that are designed to avoid or minimize the impact of existing and proposed groundwater extraction activities on groundwater resources and other users, such as overdraft or excessive drawdown. The Groundwater Ordinance requires that existing extraction facilities be permitted and registered with the County. The existing groundwater well at the DVC Monofill Facility is permitted and regulated by an attachment to CUP 05-0020, which sets site-specific conditions for the onsite well.

5.0 PROJECT WATER DEMAND

Project water demand would include water needed for dust control and construction (e.g. soil compaction) during installation of Cell 4, closure of existing Cell 3, and for subsequent operation of Cell 4. Current Cell 3 and future Cell 4 operational water demand is for dust control and makeup water for soil stabilization polymers applied to the filter cake in the active cell, as required in the CUP. Water would be supplied from the existing groundwater well, as described in Section 4.2, above. Potable water for employee drinking water and sanitary needs is brought to the site and stored separately from the pumped groundwater.

Water use for dust control and operation of Cell 3 since 2012 has ranged from 3.58 acre-feet/year to 5.57 acre-feet/year, with a median value over that period of 5.45 acre-feet/year, as discussed in Section 4.2. The historic maximum use for Cell 3 has been 8.02 acre-feet in 2010. For the purposes of the evaluation presented in this Water Supply Assessment, it is assumed that water use for dust control and operation of Cell 4 could be twice the median value, or about 11 acre-feet/year.

The water requirement for construction of Cell 4 has been estimated by Veizades & Associates, Inc. (2019). Water would be necessary for moisture conditioning of fill material for the liner and for dust control. Due to the length of time between construction of Cell 4a and Cell 4b, the estimate was prepared for Cell 4a only at this time. Over an approximate 12-month period, it is estimated that the total water demand to construct Cell 4a may range from 25 million to 32 million gallons, or approximately 75

to 100 acre-feet. The average daily water demand is estimated to range from 135,000 to 155,000 gallons per day, while the maximum daily water demand is estimated to range from 155,000 to 180,000 gallons per day. The average daily water demands are equivalent to pumping rates of about 90 gpm to 105 gpm. The maximum daily water demands are equivalent to pumping rates of about 105 gpm to 125 gpm. These pumping rates assume pumping would occur 24 hours per day and not just during working hours.

The water requirement for closure of Cell 3 has also been estimated by Veizades & Associates, Inc. (2019). Water would be necessary for moisture conditioning of the cap material and for dust control. Cell closure is estimate to require up to six months to complete. Over that six-month period, it is estimated that 10 million to 13 million gallons, or approximately 30 to 40 acre-feet, of water will be required. The average daily water demand is estimated to range from 85,000 to 110,000 gallons per day, while the maximum daily water demand is estimated to range from 95,000 to 120,000 gallons per day. The average daily water demands are equivalent to pumping rates of about 60 gpm to 75 gpm. The maximum daily water demands are equivalent to pumping rates of about 65 gpm to 85 gpm. These pumping rates assume pumping would occur 24 hours per day and not just during working hours.

Closure of Cell 3 would not occur until after Cell 4a has been constructed and becomes available for use. Thus, the water demand to construct Cell 4a and to close Cell 3 would not occur simultaneously.

According to the American Water Works Association (http://www.drinktap.org/consumerdnn/Home/WaterInformation/Conservation/WaterUseStatistics/tabid/85/Default.aspx), water use in a commercial setting (i.e. toilets and faucets using water-efficient fixtures) is approximately 20 gallons per worker per day. Approximately eight persons are employed at the project site. Therefore, the anticipated potable water demand is anticipated to be 160 gallons per day for 250 days per year, which is about 0.12 acre-feet/year.

Based on the above information, the total water demand for the project will be 75 to 100 acre-feet during the year that Cell 4a is constructed and 30 to 40 acre-feet during the six-month period while Cell 3 is being closed. The on-going operational water use for dust control and cell operation will be up to 11 acre-feet/year, while the on-going potable water use will continue to be 0.12 acre-feet/year. Based on these values, the maximum annual water use would be up to 111.12 acre-feet/year during the year that Cell 4a is constructed. The on-going long-term water demand, once cell construction and closure construction are completed, will be up to 11.12 acre-feet/year.

6.0 DRY YEAR SUPPLY

To evaluate the amount and sustainability of dry-year water supply for the project, historical rainfall data and groundwater levels were evaluated. Publicly-available rainfall data from the DWR California Data Exchange Center (CDEC) (2019) and the Western Regional Climate Center (WRCC, 2019), as cited in Section 8.0 and discussed below, were obtained for this evaluation.

The nearest locations to the Project site from which long-term precipitation data are available include:

- City of Imperial, approximately 22 miles southeast of the Project site (CDEC Station IMP) with data available from 1967 to 2019 (DWR, 2019);
- Ocotillo Wells, approximately 18 miles west-northwest of the Project site (WRCC Station 46383) with consistent data available from 1949 to 1974 (WRCC, 2019);
- Ocotillo Wells 2W, approximately 22 miles west-northwest of the Project site (WRCC Station 46386) with consistent data available from 2003 to 2019 (WRCC, 2019);
- Mecca Fire Station, approximately 37 miles northwest of the Project site (WRCC Station 45502) with consistent data available from 1946 to 2019 (WRCC, 2019); and
- Thermal airport, approximately 42 miles northwest of the Project site (WRCC Station 48892) with data available from 1950 to 2019 (WRCC, 2019).

Table 1 provides a summary of the rainfall data for the five stations described above. the data from the Ocotillo Wells and Ocotillo Wells 2W stations have been combined for the purposes of calculating summary statistics due to their close proximity, relatively shorter period of record, and the lack of overlap for the period of record. As can be seen in Table 1, despite the wide area encompassed by the data stations, the average annual rainfall does not vary appreciably between the locations, ranging from 2.47 inches at the Ocotillo Wells locations to 2.86 inches at the Thermal Airport. Although the annual averages for each station are very similar, the maximum annual rainfall amount varies from 5.73 inches at Imperial to 10.16 inches at Mecca. The wettest years during the period evaluated were 1976 and 1983. At each station, there were years where very little or no rainfall was recorded. The driest year at all of the stations was 2006.

Figure 4 shows the total annual rainfall amounts for each of the five stations from 1953 through 2018. Figure 4 is intentionally plotted immediately below Figure 3 to illustrate the lack of relationship between rainfall and groundwater elevations. While periods with above average rainfall may appear to slow the rate of groundwater decline from 1953 to 2001, the persistent and substantial decline in groundwater levels during that period cannot be attributed to rainfall conditions. It is much more likely that pumping for agricultural purposes caused the long-term decline, as discussed in Section 4.3, above. As such, the more recent slow recovery in the groundwater levels can be attributed to the reduction in groundwater pumping for irrigation.

Table 2 summarizes the single driest and multi-year dry periods for each of the stations described above in this section. The multi-year dry periods listed are those where the annual rainfall each year was below the average and the dry period lasted more than two years. The multi-year dry period at each location that had the least amount of rain compared to the average for that same duration is highlighted in yellow on Table 2. As discussed above, the driest year at all locations was 2006. At all locations except the Ocotillo Wells stations, the driest multi-year periods either occurred after 2001 or spanned that year. This is of significance because 2001 is the year that the long-term decline in groundwater levels shown on Figure 3 ended and the groundwater level began to recover.

Comparison of groundwater levels (Figure 3) with the rainfall data as presented on Figure 4 and summarized in Tables 1 and 2, demonstrates that individual dry years or multi-year dry periods do not restrict the available groundwater supply if pumping does not exceed the long-term average recharge rate. As discussed in Section 4.3, the long-term sustainable supply in the basin is in the range of 800 acre-feet per year. The maximum single-year water demand for the Project of 111.12 acre-feet per year during Cell 4a construction and the ongoing water demand of 11.12 acre-feet per year are both well below the long-term sustainable supply of 800 acre-feet per year. Thus, there is more than adequate groundwater to supply the Project water needs during normal, single dry, and multiple dry year periods.

7.0 FINDINGS and DISCUSSION

This WSA has been prepared in accordance with SB 610 and SB 1262 to support the CEQA environmental review for the proposed Project and provides an assessment of water supply adequacy for the project in accordance with Water Code Sections 10910 through 10915. The water demand for the proposed Project will consist of water needed to construct Cell 4a, water needed to operate Cell 4, water needed to close Cell 3, and the water needed for employee potable water demand.

The ongoing water demand over the next 20 years will be up to 11.12 acre-feet per year for operational dust control and employee potable water needs. Construction of Cell 4a and closure of Cell 3 will result in temporary increases in water demands for periods of 12 months and six months, respectively. The peak demand during the year that Cell 4a is constructed will be up to 111.12 acre-feet. The peak demand for the full year period during which the six-month closure of Cell 3 would occur will be up to 51.12 acre-feet. Evaluation of conditions in the groundwater basin indicates that the long-term sustainable supply is approximately 800 acre-feet per year. Consideration of groundwater levels during wet and dry periods demonstrates that the amount of water available does not vary appreciably with climatic cycles. Therefore, there will be sufficient water available for the Project during single dry year and multiple dry year periods over at least the next 20 years.

As discussed in Section 4.2, the existing 605-foot deep, five-inch diameter supply well provides an average of 38 gpm. Based on information from the Well Completion Report (UCM, 2005), at the time the well was drilled, it produced 37 gpm with a drawdown of 22 feet. Since the well is 605 feet deep and the depth to groundwater in the well is about 44 feet deep, the aquifer can sustain substantially greater drawdown and, thus, provide much greater quantities of water. The current pumping rate is probably restricted based on the size of pump that a five-inch diameter well casing can accommodate. To evaluate how much water a larger diameter well may be able to produce, an analytical model is based on the Theis equation (Domenico and Schwartz, 1990) was used. At a pumping rate of 250 gpm, or twice the maximum daily rate during Cell 4a construction (see Section 5.0), the analytical model predicts that the drawdown would be approximately 175 feet. Since the total water column in the existing well is over 560 feet (i.e. 605 feet minus 44 feet), a drawdown of 175 feet is not unreasonable during short periods (e.g. a few days at a time) when the maximum construction water demand may occur. To achieve pumping rates of this magnitude, however, a much larger diameter well would need to be drilled so that pumping equipment large enough to produce that volume of water can fit within the well casing.

If construction of a new well will be considered for the Project, the geologic conditions within the aquifer may provide some guidance for selection of potential drilling locations. As discussed in Section 4.1, the deep aquifer consists of a mix of stream deposits, such as sand and gravel, along with lake-bed deposits. The stream deposits originate from the mountain-front areas to the southwest and west, whereas the lake-bed deposits originate from ancient predecessors to the Salton Sea, toward the northeast. As a result, the geologic deposits within the aquifer will tend to be more coarse-grained toward the southwest and finer-grained toward the northeast. Since coarse-grained deposits generally provide appreciably greater quantities of water than fine-grained deposits, a new well drilled in Section 33 would be expected to be more productive than

an equivalent well drilled in Section 27. To minimize drawdown and reduced production from the existing well, any new well drilled at the Facility should be located at least 150 feet from the existing well.

The diameter, depth, and location of a new well may affect the amount of groundwater that can be produced locally from that well. Those factors, however, do not affect the amount of water that can be sustainably produced from a regional aquifer. As such, the discussions above regarding the potential production from and location of a new well at the site do not affect the findings of this Water Supply Assessment that sufficient water would be available for the Project during single dry year and multiple dry year periods over at least the next 20 years.

8.0 DOCUMENTS CONSIDERED AND REFERENCES CITED

Balderman Consulting, Inc., 2002, Geologic Investigations, Proposed Cell 3 Area, Desert Valley Company Monofill, Imperial County, California.

Department of Water Resources (DWR), 1975, Vegetative Water Use in California, 1974, Bulletin 113-3.

Department of Water Resources (DWR), 1979, Evaporation from Water Surfaces in California, Bulletin 73-79.

Department of Water Resources (DWR), 1986, Crop Water Use in California, Bulletin 113-4.

Department of Water Resources (DWR), 2004, California's Groundwater, Bulletin 118 – Update 2003, Ocotillo-Clark Valley Groundwater Basin.

Department of Water Resources (DWR), 2019, California Data Exchange Center, www.cdec.water.ca.gov, accessed February 21, 2019

Desert Valley Company (DVC), 2019, Desert Valley Company Class II Solid Waste Management Facility, Quarterly Detection Monitoring Report for October-December 2018, Regional Board WDID No. 7A 13 2197 001, Board Order No. R7-2016-0016, http://geotracker.waterboards.ca.gov/esi/uploads/geo_report/1286124110/L10003472657.PDF

Domenico, Patrick A. and Franklin W. Schwartz, 1990, Physical and Chemical Hydrogeology, John Wiley and Sons, New York.

Ericsson-Grant, Inc., 2014, Draft Environmental Impact Report for the Seville Solar Farm Complex, http://www.icpds.com/?pid=4085

Todd Engineers, 2013, Water Supply Assessment, Seville Solar Farm Complex, Final, ftp://ftp.co.imperial.ca.us/icpds/eir/seville-solar-complex/69appk-water-supply-assessment.pdf

Underground Construction Managers (UCM), 2005, Report of Well Construction, New Water Supply Well, Desert Valley Company Monofill, Imperial County, California.

U.S. Geological Survey (USGS), 2019, National Water Information System, Groundwater Levels for Well #330701116003501, https://nwis.waterdata.usgs.gov/nwis/gwlevels?site_no=330701116003501&agency_cd=USGS&format=html, accessed February 21, 2019

Veizades & Associates, Inc., 2019, DVC Cells 3 & 4a/4b Construction Water Estimate, letter from Steven Burden, PE, to Ms. Jenny Wu, Berkshire Hathaway Energy, CalEnergy Operating Corporation, March 28, 2019

Western Regional Climate Center (WRCC), 2019, http://www.wrcc.dri.edu/cgi-bin/cliMONtpre.pl?calive, accessed February 21, 2019.

Table 1
Rainfall Summary for Five Stations
1953-2018

Station	Average Annual Rainfall	Maximum Annual Rainfall	Minimum Annual Rainfall
Imperial	2.64	5.73	0.07
Ocotillo/2W	2.47	6.73	0
Mecca Fire Sta	2.64	10.16	0
Thermal Airport	2.86	8.67	0.23

All values in inches

Table 2

Single Driest Year and Multiple-Year Dry Periods

1953-2018

Station	Single Driest Year	Multiple-Year Dry Periods (3 years or longer)						
Imperial	2006	1970-1975	1987-1990	1999-2003	2006-2009	2014-2018		
Ocotillo/2W	2006	1953-1957	1966-1974	2013-2015				
Mecca	1990, 2006	1960-1962	1968-1975	1984-1986	1988-1990	1998-2004	2006-2009	2013-2015
Thermal	2006	1953-1957	1959-1962	1966-1973	1999-2003	2011-2015		

Driest multi-year period highlighted

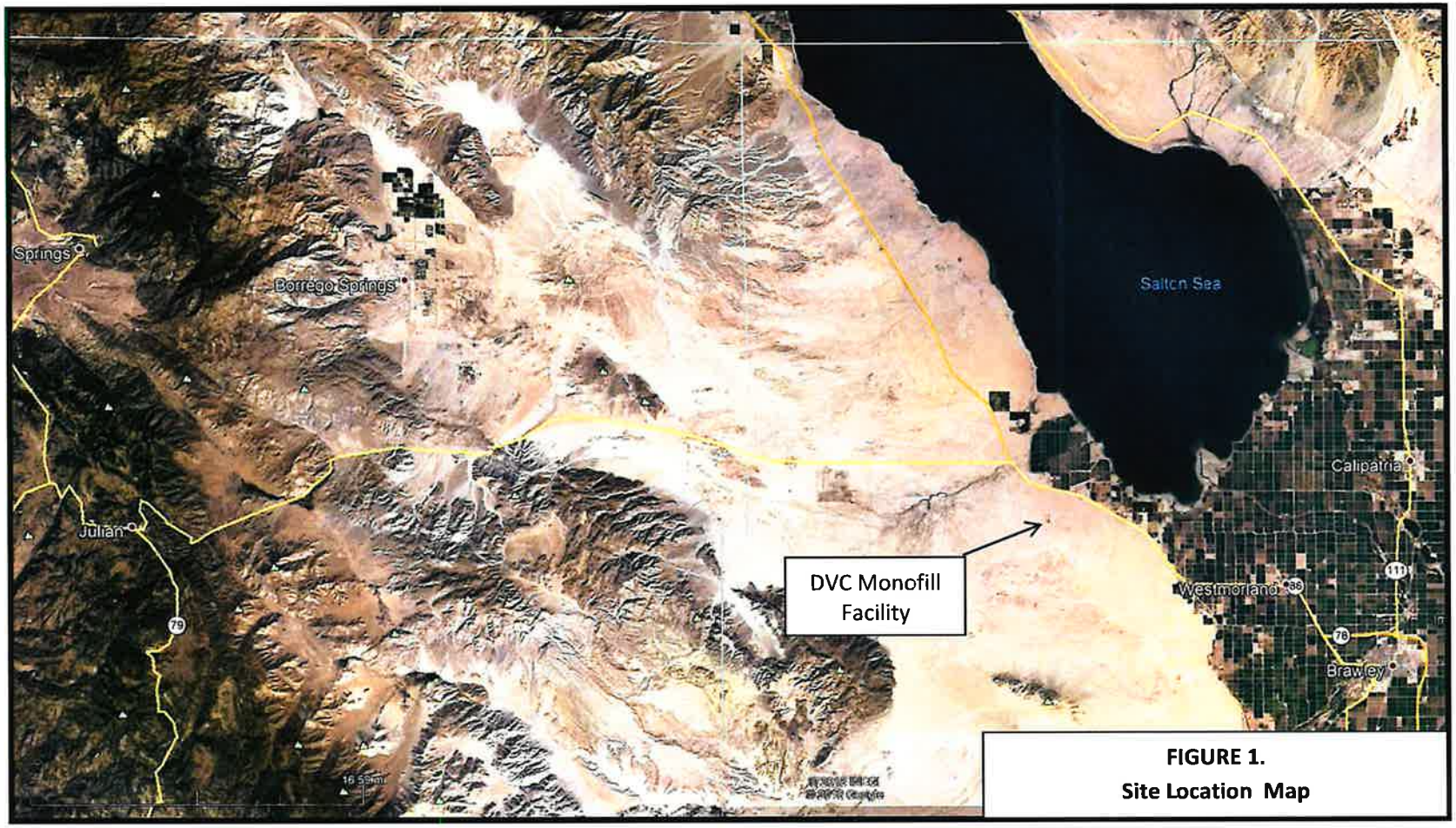


FIGURE 1.
Site Location Map

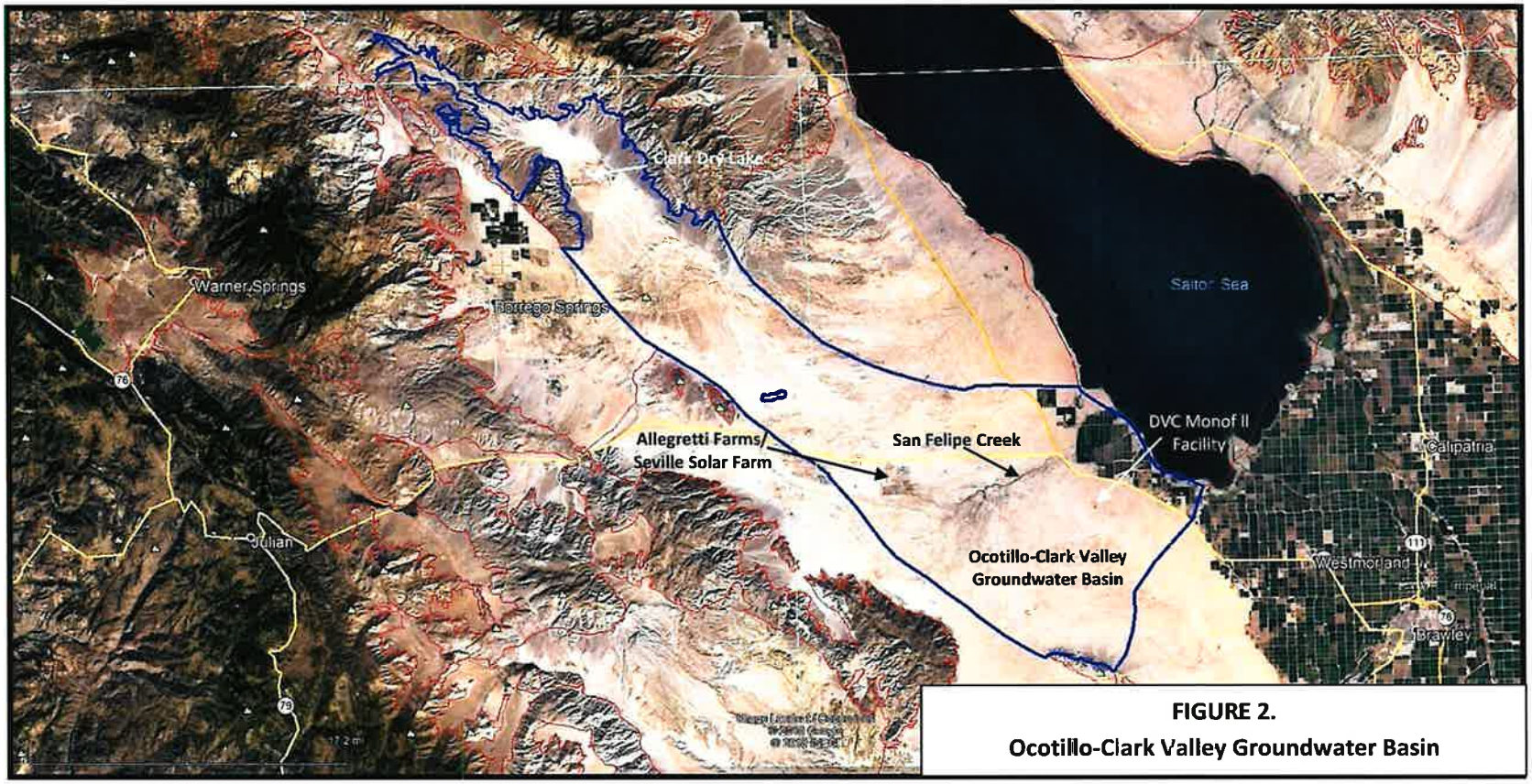


FIGURE 2.
Ocotillo-Clark Valley Groundwater Basin

Figure 3. USGS Groundwater Elevations at Allegretti Farms Well

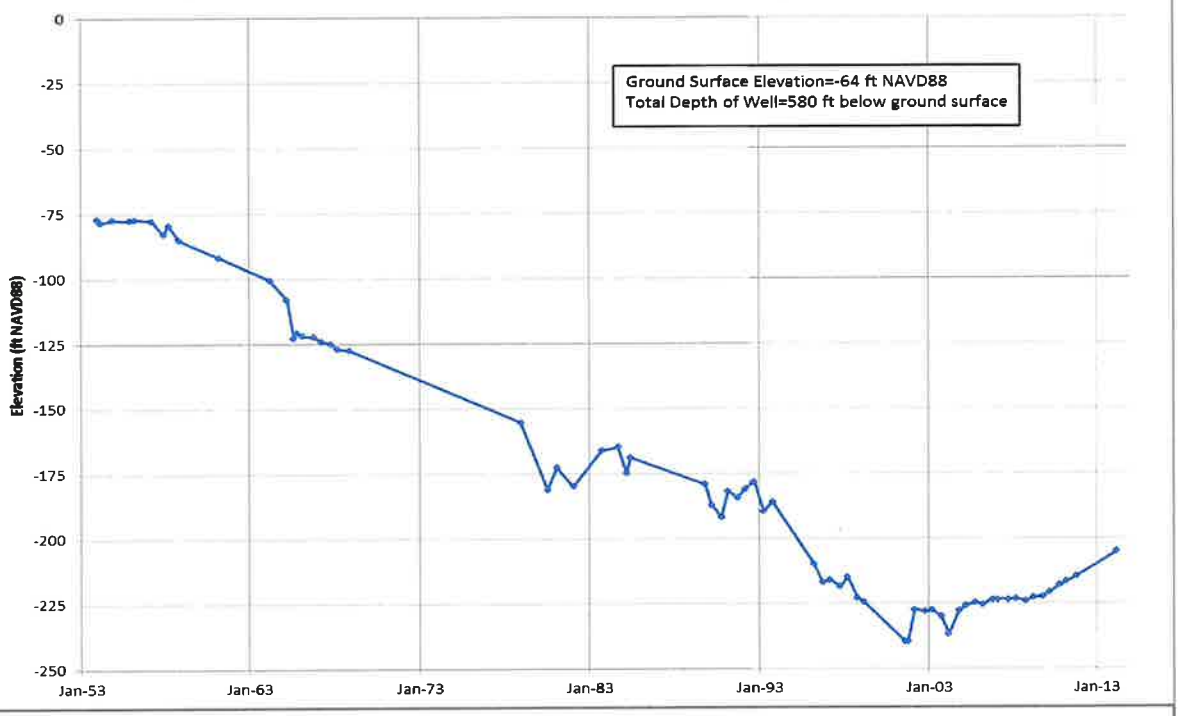
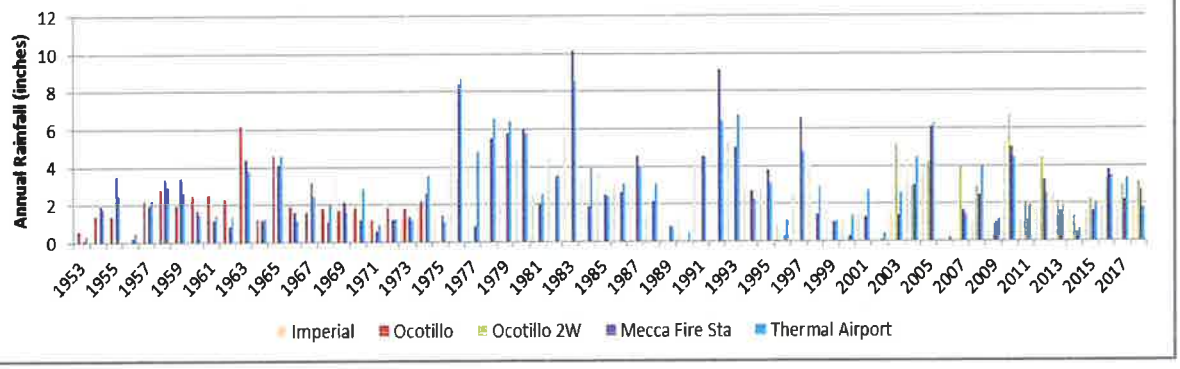


Figure 4. Annual Rainfall at Five Stations



This page intentionally left blank.

Attachment D: Resolution for the Final Environmental Impact Report (FEIR) SCH #2019120605 & Findings

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, RECOMMENDING TO THE IMPERIAL COUNTY BOARD OF SUPERVISORS CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT (FEIR) AND FINDINGS FOR THE DESERT VALLEY COMPANY MONOFILL (DVCM) EXPANSION (CELL 4) PROJECT

WHEREAS, a Final Environmental Impact Report (FEIR) SCH #2019120605 and Candidate CEQA Findings have been prepared in accordance with the requirements of the California Environmental Quality Act, the State CEQA Guidelines, and the County's Rules to Implement CEQA as amended for the DVCM Expansion (Cell 4) Project which consists of a General Plan Amendment, a Zone Change, a MMRP and two (2) CUP's (the "Project"); and,

WHEREAS, the Planning Commission of the County of Imperial has been delegated with the responsibility of making recommendations to the Imperial County Board of Supervisors regarding the Project for approval and certification; and,

WHEREAS, the FEIR has been provided in a timely manner to public agencies; and

WHEREAS, timely public notice of the Planning Commission's hearing on the Project application has been given, and the Planning Commission has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at that public hearing held with respect to this item on December 16, 2021; and,

WHEREAS, the Final EIR includes analysis of various alternatives as required by CEQA, including the Reduce Footprint Alternative (Alternative #3) which has been identified as the environmental superior alternative; and

NOW THEREFORE, the Planning Commission of the County of Imperial DOES HEREBY RESOLVE as follows:

SECTION 1. The Planning Commission independently has reviewed and considered the proposed Final Environmental Impact Report (FEIR), Mitigation Monitoring and Reporting Program (MM&RP), and Candidate CEQA Findings prior to making a decision to recommend that the Board of Supervisors approve the proposed FEIR and Findings of Fact. The Planning Commission finds and determines that the Environmental Impact Report is adequate and prepared in accordance with the requirements of the California Environmental Quality Act (CEQA), which analyzes environmental effects, based upon the following findings and determinations.

SECTION 2. That in accordance with, CEQA, State Planning and Zoning law and the County of Imperial Land Use Ordinance, the following findings for the recommendation for approval and certification of the FEIR, MM&RP and Findings of Fact have been made as follows:

1. That the Final Project EIR **SCH# 2019120605**, Candidate CEQA Findings for the DVCM Expansion (Cell 4) ("Project") have been prepared in accordance with the requirements of the California Environmental Quality Act, the State CEQA Guidelines, and the County's Rules to implement CEQA as amended, and such findings are incorporated by reference herein.

2. That the County independently has reviewed, analyzed, and considered the Final Project EIR, the environmental impacts therein identified for this Project, the Candidate CEQA Findings, and the Mitigation Monitoring and Reporting Program, and the entire Record of Proceedings prior to recommending approval of this project.

3. That the Final Project EIR and the Candidate CEQA Findings reflect the independent judgment of the County.

4. That the Candidate CEQA Findings are supported by substantial evidence and backed by information provided to the County by experts, including but not limited to the County staff and the EIR preparer, on whom the County relies.

5. That the County accept as its own, incorporate as if set forth in full herein, and make each and every one of the findings contained in the Candidate CEQA Findings, including feasibility of mitigation measures pursuant to Public Resources Code 21081(a)/CEQA Guidelines 15091, and the infeasibility of project alternatives.

6. That the Mitigation Monitoring and Reporting Program is designed to ensure that during project implementation, the Developer and any other responsible parties implement the Project components and comply with feasible mitigation measures identified in the CEQA Findings, the Project entitlements, and the Mitigation Monitoring and Reporting Program and that these measures are fully enforceable through permit conditions, agreements, and/or other measures, such as their inclusion in the Mitigation Monitoring and Reporting Program.

7. That the Project will not individually or cumulative have an unmitigated adverse effect on fish and wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

8. That the Record of Proceedings consists of the Final Project EIR (and all its technical reports and addendums thereto); the County staff reports; the CEQA Findings; the Mitigation Monitoring and Reporting Program; the various Project entitlements and documents referenced therein; all final reports, applications, memoranda, maps, letters, and other planning documents prepared and/or utilized by the EIR planning/environmental consultant; all final reports, memoranda, maps, letters, and other planning documents prepared and/or utilized by the County staff; all documents submitted by members of the public and public agencies in connection with the Final Project EIR; minutes and transcripts of all public meetings and public hearings; all written and verbal public testimony presented during a noticed public hearing for the proposed project which such testimony was taken and any and all other materials which constitute the record of proceeding pursuant to Public Resources Code section 21167.6(e); and matters of

common knowledge to the County staff, Planning Commission, and Board of Supervisors, including, but not limited to the County General Plan, the County Zoning Ordinance, and County policies, which may be found at the Clerk's Office located at 940 Main Street, Suite 209, El Centro, CA, 92243 during regular business hours, and the Imperial County Planning & Development Services Department at 801 Main Street, El Centro, CA 92243.

9. That the County does hereby recommend that the Board of Supervisors of the County of Imperial certify the Final Project EIR.

NOW, THEREFORE, based on the above findings, the Planning Commission of the County of Imperial **DOES HEREBY RECOMMEND** that the Board of Supervisors approve the proposed Final Project EIR **SCH# 2019120605** and Candidate CEQA Findings, for the DVCM Expansion (Cell 4) ("Project").

_____
Rudy Schaffner, Chairperson
Imperial County Planning Commission

I hereby certify that the preceding resolution was taken by the Planning Commission at a meeting conducted on December 16, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____
Jim Minnick, Director of Planning & Development Services
Secretary to the Planning Commission

DRAFT
CANDIDATE FINDINGS

DESERT VALLEY COMPANY
MONOFILL EXPANSION PROJECT, CELL 4

SCH No. 2019120605

GPA#18-0004/ ZC#18-0005/IS#18-0020
CUP Amendment #18-0025
Water Well CUP #21-0002

Lead Agency:
IMPERIAL COUNTY
PLANNING & DEVELOPMENT SERVICES
801 MAIN STREET
EL CENTRO, CALIFORNIA 92243

Prepared by
BRG Consulting

304 Ivy Street
San Diego, CA 95825
Telephone: (619) 298-7127

November 2021

This page intentionally left blank.

TABLE OF CONTENTS

I. INTRODUCTION

The California Environmental Quality Act (CEQA) (Pub. Res. Code §§ 21000, et seq.) and the CEQA Guidelines (14 Cal. Code Regs §§15000, et seq.) promulgated thereunder, require that the environmental impacts of a project be examined before a project is approved. In addition, once significant impacts have been identified, CEQA and the CEQA Guidelines require that certain findings be made before project approval. Specifically, regarding findings, CEQA Guidelines Section 15091 provides:

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR;

2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR.

(b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.

(c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

(d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

(e) The public agency shall specify the location and custodian of the documents or other materials which constitute the record of the proceedings upon which its decision is based.

(f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

The "changes or alterations" referred to in Section 15091(a)(1) above, that are required in, or incorporated into, the project which mitigate or avoid the significant environmental effects of the project, may include a wide variety of measures or actions as set forth in CEQA Guidelines Section 15370, including:

(a) Avoiding the impact altogether by not taking a certain action or parts of an action.

(b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.

(c) Rectifying the impact by repairing, rehabilitating, or restoring the impacted environment.

(d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.

(e) Compensating for the impact by replacing or providing substitute resources or environments.

CEQA Guidelines §15092(b) provides that no agency shall approve a project for which an EIR was prepared unless either:

(1) The project approved will not have a significant effect on the environment, or

(2) The agency has:

(a) Eliminated or substantially lessened all significant effects where feasible as shown in the findings under Section 15091, and

(b) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

Should significant and unavoidable impacts remain after changes or alterations are applied to the Project, a Statement of Overriding Considerations must be prepared. The statement provides the lead agency's views on the ultimate balancing of the merits of approving a project despite its environmental damage. Regarding a Statement of Overriding Considerations, CEQA Guidelines Section 15093 provides:

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the Final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the Final EIR and/or other information in the record. The Statement of Overriding Considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a Statement of Overriding Considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

The following Candidate Findings of Fact (Findings) are the findings that would need to be made by the decision-making body prior to certification of the Final EIR. It is the discretion of the decision-maker certifying the Final EIR to determine the adequacy of the proposed Findings. It is the role of staff to independently evaluate the proposed Findings, and to make a recommendation to the decision-maker regarding their legal adequacy.

A. Record of Proceedings

For purposes of CEQA and these Findings, the Record of Proceedings for the proposed Project includes but is not limited to the following documents and other evidence:

- The Notice of Preparation (NOP) and all other public notices issued by the County in conjunction with the proposed project;
- Comments received on the NOP;
- Scoping Meeting and comments received at Scoping Meeting(s);
- All minutes of any public workshops, meetings or hearings, and any recorded or verbatim transcripts or videotapes thereof;
- All reports, letters, applications, memoranda, maps or other planning and engineering documents prepared by the County, its planning consultant and environmental consultant, the applicant or others and presented to or before the decision-makers or staff;
- All written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;

- All responses to written comments submitted by agencies or members of the public during the public review comment period on the Draft EIR;
- All written and verbal public testimony presented during a noticed public hearing for the proposed Project at which such testimony was taken;
- The Mitigation Monitoring and Reporting Program (MMRP);
- The reports and technical memoranda included or referenced in the responses to public comments;
- All documents, studies, EIRs, or other materials incorporated by reference or cited to in the Draft EIR and the Final EIR;
- The Draft EIR together with all appendices and technical reports referred to therein, whether separately bound or on a CD; the Final EIR and all supplemental documents prepared for the Final EIR and submitted to the County of Imperial Planning Commission (Planning Commission) prior to the Planning Commission hearing;
- Matters of common general knowledge to the County which it may consider, including applicable state or local laws, ordinances and policies, the General Plan and all applicable planning programs and policies of the County;
- Any documents expressly cited in these Findings;
- County staff report(s) prepared for the hearing related to the proposed Project and any exhibits thereto;
- Project permit conditions; and
- Any other relevant materials required to be in the record of proceedings by CEQA section 21167.6(e).

The Draft and Final EIR and related technical studies were made available for review during the public review periods on the Imperial County Planning and Development Service Department: http://www.icpds.com. and at the following public location:

County of Imperial
Planning and Development Services Department,
801 Main Street,
El Centro, California 92243

A. Custodian and Location of Records

The documents and other materials, which constitute the administrative record for the County's actions related to the Project, as detailed in Section I.A above, are located at the Imperial County Planning and Development Services Department, 801 Main Street, El Centro, California 92243. The County Clerk is the custodian of the administrative record for the project. Copies of these documents, which constitute the Record of Proceedings, are at all relevant and required times have been and will be available upon request at the offices of the County Planning and

Development Services Department. This information is provided in compliance with Public Resources Code section 21081.6(a)(2) and CEQA Guidelines Section 15091(e).

II. PROJECT SUMMARY

A. Project Location

The existing Desert Valley Company (DVC) Waste Disposal Monofill (Monofill) is located at 3301 West Highway 86, Brawley, California, 92227. The DVM and proposed Cell 4 expansion site ("Project site") are located southwest of the Salton Sea. The Project site is located immediately west of the existing monofill on private lands north of Superstition Hills and south of State Route 86 (Highway 86), approximately 12 miles west of the City of Westmorland and four (4) miles south of the Salton Sea in the County of Imperial, California.

The Project site is located in Section 33, Range 11 East, Township 12 South within the U.S. Geological Survey (USGS) Kane Spring, California 7.5-minute topographic quadrangle (Assessor's Parcel No. [APN] 019-100-004-001).

B. Project Description

The Desert Valley Company Monofill (Monofill) is an active Class II Solid Waste Management Facility (SWMF) used for the disposal of certain geothermal non-hazardous waste streams and byproducts generated by CalEnergy Operating Corporation's (CalEnergy) geothermal power plant operations in Imperial County, California. The Monofill is permitted under Solid Waste Facility (SWF) Permit No. 13-AA-0022[1]; Conditional Use Permit (CUP) No. 05-0020[2]; and Waste Discharge Requirements (WDR) R7-2016-0016[3]. As identified in the CUP and SWFP, the waste stream accepted at the Monofill is limited to geothermal filter cake, drilling mud materials and cuttings, soils containing geothermal materials, and incidental plastic sheeting used as truckbed liners by the waste transport trucks. These materials contain a number of substances including arsenic, salts, metals and Naturally Occurring Radioactive Materials (NORM) [4]. No municipal solid waste is accepted at the Monofill and it is not open for public and/or commercial use at any time. The permitted hours and days of operation are 6:00 AM to 6:00 PM, Monday through Sunday. The volume of non-hazardous wastes that can be received is limited to a maximum of 750 tons per day and 273,750 tons annually in accordance with the current CUP and SWFP.

The Desert Valley Company Monofill Expansion Project, Cell 4 (Project or proposed Project) would expand the existing Monofill by approximately 80[5] acres (Table 1) and would be

[1] Issued by the Imperial County Public Health Department, Division of Environmental Health (DEH) in 2020 (as modified). DEH is the Local Enforcement Agency (LEA) for the California Dept. of Resources, Recycling and Recovery (CalRecycle)

[2] Issued by the Imperial County Planning and Development Services Department in December 2005 (as modified).

[3] Issued by the California Regional Water Quality Control Board, Colorado River Basin Region 7 (as modified).

[4] The Monofill operates in conformance with a "Radiation Monitoring Plan", that requires monitoring of workers stationed at the site to ensure that they are not subject to any impacts from radiation. The proposed project includes its continued implementation.

[5] Acreage rounded to nearest 10.

constructed in two phases, referred to as Cell 4A and Cell 4B. Each waste disposal cell (Cell 4A and Cell 4B) would provide an additional 1.3 million cubic yards of disposal capacity for a total of 2.6 million cubic yards. The design of Cell 4 would be consistent with the DVCM's existing permits and all aspects of the proposed Project, such as operations, maintenance, monitoring, recordkeeping, and financial assurances, would be consistent with those of the existing monofill.

TABLE 1: PROPOSED EXPANSION ACREAGE

Project Feature	Size (acreage)
Laydown/borrow area	16
Leachate Pond	1.2
Cell 4A	24
Cell 4B	21
Diversion Swale	14
TOTAL	**76.2**

The proposed Project involves the construction, operation, maintenance, and closure of a new waste storage Cells 4A (24 acres) and 4B (21 acres); a new leachate pond (1.2 acres), addition and extension of storm-water diversion dikes(14 acres); a new laydown/borrow area (16 acres); minor extension/modification to internal roads, installation of a new water well and additional air quality particulate sampling stations and groundwater monitoring wells.

Cell 4 would be built in two (2) phases -referred to herein as Cells 4A and 4B, respectively. Similar to Cell 3, Cells 4A and 4B would occupy a surface area of approximately 50 acres (CalEnergy, 2018). The construction of the new waste disposal Cell (Cell 4) will expand the existing monofill and continue the current operations of the permitted Class II Monofill Facility. To construct Cell 4, a modification of Conditional Use Permit (CUP) No. 05-0020 and issuance of a water well CUP is required by Imperial County.

The total Desert Valley Company Monofill occupies 181.5 acres, of which approximately 68 acres (the total permitted area) is enclosed by fencing which surrounds the landfill operating area. A total of 28.9 acres of the site is currently permitted for disposal operations (Table 2). The proposed Project would expand the total permitted area and disposal operations by 46.2 acres (45 acres for Cells 4A and 4B + leachate pond) , which would result in a total permitted area of 114.2 acres and a total disposal area of 75.1 acres.

TABLE 2: PERMITTED AND DISPOSAL OPERATION AREAS

Project Area	Permitted Area (acres)	Disposal Operations Area (acres)
Existing Monofil	68	28.9
Proposed Cell 4A	24	24
Proposed Cell 4B	21	21
Proposed Leachate Pond	1.2	1.2
TOTAL	**114.2**	**75.1**

Cell 4 is proposed to be constructed and operated in two phases to transition operations from Cell 3. Phase 1 (Cell 4A) would be constructed and operable by 2024 to allow for the transition of disposal activities to occur prior to the estimated closure of Cell 3 in January 2025. Phase 2 (Cell 4B) would be constructed as additional capacity is needed. In addition to a CUP modification, an Imperial County General Plan Amendment and Zoning Change on APN 019-100-004-000 is required to modify the existing Open Space (OP) General Plan designation and Open Space (S-2) Zoning to Special Purpose Facility (SPF) and Medium Industrial (M-2), respectively.

C. Discretionary Actions

1. Discretionary Actions/Approvals by the County of Imperial

The County is the "lead agency" for the proposed Project. Lead agency is defined as, "the public agency, which has the principal responsibility for carrying out or approving a project." The County must undertake the following discretionary actions and approvals for the project:

Water Supply Assessment. Prior to making a decision to approve the proposed Desert Valley Company Monofill Expansion Project, Cell 4 Water Supply Assessment, the County must determine whether the water supply assessment is adequate and prepared in accordance with the requirements of the Water Code 10912(a)(7) and demonstrates that projected water supplies will meet the projected water demand associated with the proposed Project.

Certification of the EIR. After the required public review for the Draft EIR, the County will respond to written comments, edit the document, and produce a Final EIR to be certified by the Planning Commission and Board of Supervisors prior to making a decision on the Project.

Approval of General Plan Amendment and Zone Change. Implementation of the Project would require the approval of a General Plan Amendment and Zone Change to place the Project in conformance with County land use policies. A General Plan Amendment to change the land use designation from on approximately 458.5 acres of Section 3 from “Recreational/ Open Space” to “Special Purpose Facility”, which allows Class II solid waste facilities, with the approval of a Conditional Use Permit. Implementation of the Project will also require a Zone Change to change the zoning from S-2 (Open Space/Preservation) to M-2 (Medium Industrial). Solid waste facilities are a permitted use within the M-2 Zone, with the approval of a Conditional Use Permit.

Approval of Amendment to Conditional Use Permit (CUP). Implementation of the Project would require the approval of a CUP by the County to allow for addition of a fourth cell to the existing monofil facilities and to facilitate the development, operation, closure and post-closure of a Class II non-hazardous solid waste landfill for geothermal, non-hazardous waste streams. the construction, operation, maintenance, and closure of a new waste storage Cell 4 and associated facilities.

Approval of Water Well Conditional Use Permit (CUP). Implementation of the Project would require the approval of a CUP by the County to allow for a new well for water use during construction and operation of Cell 4 and for the capping and closure of existing Cell 3. The

Groundwater Ordinance requires that existing extraction facilities be permitted and registered with the County.

Subsequent ministerial approvals may include, but are not limited to:

- Grading and clearing permits
- Building permits

2. Discretionary Actions/Approvals by Other Agencies

Responsible Agencies are those agencies that have discretionary approval over one or more actions involved with development of the Project. Trustee Agencies are state agencies that have discretionary approval or jurisdiction by law over natural resources affected by a Project. These agencies may include, but are not limited to the following:

- California Regional Water Quality Control Board – Section 401 of the Federal CWA, National Pollutant Discharge Elimination System (NPDES) General Permit for Discharge of Construction Related Stormwater
- California Regional Water Quality Control Board – Waste Discharge
- California Regional Water Quality Control Board – Industrial General Stormwater Permit
- California Department of Transportation – California Vehicle Code and California Streets and Highways Code
- California Department of Fish and Wildlife (CDFW) Service (Trustee Agency) – 1602 Lake and Streambed Alteration Agreement
- California Dept. of Public Health – Radioactive Material License
- Imperial County Public Health Department, Division of Environmental Health and CalRecycle – Revision to Solid Waste Facility Permit No. 13-AA- 0002
- Imperial County Air Pollution Control District – Authority to Construct, Permit to Operate

D. Statement of Objectives

The objective of CalEnergy ("the Applicant"), is to expand the existing Desert Valley Company Monofill with the construction of a new waste disposal Cell (Cell 4) and continue the current operations of the permitted Class II Monofill Facility. If the proposed expansion is approved, current operations would be shifted from Cell 3 to Cell 4 once Cell 3 has reached its disposal capacity in 2025. No change in the daily (750 tons per day) volumes of waste accepted at the facility, as identified in the SWF permit, is proposed; however, the location of the disposal cells and length of the disposal period would be extended to account for the estimated lifespan of the proposed Cell 4. Cell 3 is projected to reach capacity in 2025. The proposed expansion would increase the disposal capacity of the monofill by 2.6 million cubic yards (CY) and extend its operational life to approximately 2080.

Specific objectives developed for the Project are as follows:

- Maintain and expand cost-effective disposal for Cal Energy's geothermal facility operations beyond 2025;
- Minimize haul distances for waste collection vehicles to reduce traffic, air quality, energy, and climate change impacts by providing up to 2.6 million cubic yards of additional waste disposal capacity at the Desert Valley Company Monofill;
- Utilize existing disposal facilities to minimize land use conflicts and impacts to the environment;
- Minimize the negative impacts of waste disposal at the expanded monofill through an environmentally sound operation that incorporates modern engineering and design techniques.

III. ENVIRONMENTAL REVIEW AND PUBLIC PARTICIPATION

After the County reviewed the applications for the proposed Project, it concluded that the Project could have a significant impact on the environment and that preparation of an environmental impact report was determined to be the appropriate CEQA environmental document. In accordance with CEQA Guidelines Section 15082, the County issued a Notice of Preparation (NOP) on December 27, 2019 and made the NOP available for review and comment for a 35-day period closing on January 31, 2020. The NOP was distributed to city, county, and state and federal agencies, other public agencies, and various interested private organizations and individuals. The NOP was also published in the Imperial Valley Press on December 26, 2019. A public scoping meeting was held on January 9, 2020. Three comment letters were received during the NOP review period. A copy of the NOP and written comments received in response to the NOP are included in Appendix A-1 of the Final EIR.

Based upon the Initial Study and comments received in response to the NOP, the County determined that the Draft EIR's Environmental Analysis section would include a detailed assessment of Project-related impacts for the following resource topics:

- Air Quality
- Biological Resources
- Cultural Resources
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology/Water Quality
- Land Use and Planning
- Noise and Vibration
- Transportation and Traffic
- Tribal Cultural Resources
- Utilities/Service Systems

The Draft EIR also included other CEQA sections including an Executive Summary, Introduction, Existing Facilities and Operations, Project Description, Analysis of Long-Term Effects, Cumulative Impacts, Effects Found Not To Be Significant, and Alternatives.

IV. FINDINGS REQUIRED UNDER CEQA

CEQA Section 21002 provides that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available that would substantially lessen the significant environmental effects of such projects[...]" The same statute states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures that will avoid or substantially lessen such significant effects. CEQA Section 21002 goes on to state that "in the event [that] specific economic, social, or other conditions make infeasible such project alternatives or such mitigation measures, individual projects may be approved in spite of one or more significant effects."

The mandate and principles announced in CEQA Section 21002 are implemented, in part, through the requirement that agencies must adopt findings before approving projects for which EIRs are required. For each significant environmental effect identified in an EIR for a proposed project, the approving agency must issue a written finding reaching one or more of three permissible conclusions. The first such finding is that "changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the Final EIR" (CEQA Guidelines Section 15091(a)(1)). The second permissible finding is that "such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency" (CEQA Guidelines Section 15091 (a)(2)). The third potential conclusion is that "specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the Final EIR" (CEQA Guidelines Section 15091(a)(3)). CEQA Section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." CEQA Guidelines Section 15364 adds another factor: "legal" considerations (see also Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 565).

The concept of "feasibility" of a particular alternative or mitigation measure promotes the underlying goals and core objectives of a project (see San Diego Citizenry Group v. County of San Diego (2013) 219 Cal. App. 4th 1, 18; see also City of Del Mar v. City of San Diego (1982) 133 Cal. App. 3d 410, 417). "Feasibility under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors" (Ibid).

The CEQA Guidelines do not define the difference between "avoiding" a significant environmental effect and merely "substantially lessening" such an effect. The County must therefore glean the meaning of these terms from the other contexts in which the terms are used. CEQA Section 21081, on which CEQA Guidelines Section 15091 is based, uses the term "mitigate" rather than "substantially lessen." The CEQA Guidelines therefore equate "mitigating" with "substantially lessening." Such an understanding of the statutory term is consistent with the policies underlying CEQA, which include the policy that "public agencies should not approve projects as proposed if

there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects" (CEQA Section 21002).

For purposes of these Findings, the term "avoid" means to not result in a significant impact. In contrast, the term "substantially lessen" refers to the effectiveness of a mitigation measure or measures to substantially reduce the severity of a significant effect to a level less than significant.

Although CEQA Guidelines Section 15091 requires only that approving agencies specify that a particular significant effect is "avoid[ed] or substantially lessen[ed]," these findings, for purposes of clarity, in each case will specify whether the effect in question has been reduced to a less-than-significant level or has simply been substantially lessened but remains significant. Moreover, although CEQA Guidelines Section 15091, read literally, does not require findings to address environmental effects that an EIR identifies as merely "potentially significant," these findings will nevertheless fully account for all such effects identified in the Final EIR (which includes the Draft EIR).

In short, CEQA requires that the lead agency adopt mitigation measures or alternatives, where feasible, to substantially lessen or avoid significant environmental impacts that would otherwise occur. Project modifications or alternatives are not required, however, where such changes are infeasible. (CEQA Guidelines, §15091, subd. (a)(3)).

With respect to a project for which significant impacts are not avoided or substantially lessened either through the adoption of feasible mitigation measures or a feasible environmentally superior alternative, a public agency, after adopting proper findings, may nevertheless approve the project if the agency first adopts a Statement of Overriding Considerations setting forth the specific reasons why the agency found that the project's "benefits" rendered "acceptable" its "unavoidable adverse environmental effects" (CEQA Guidelines Sections 15093 and 15043(b). The California Supreme Court has stated that, "[t]he wisdom of approving ... any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced" (Goleta, supra, 52 Cal.3d at p. 576; see also Cherry Valley Pass Acres & Neighbors v. City of Beaumont (2010) 190 Cal. App.4th 316, 357-359).

Legal Effects of Findings

To the extent that these Findings conclude that various project design features and mitigation measures outlined in the Final EIR are feasible and have not been modified, superseded, or withdrawn, the City hereby binds itself to implement these measures. These Findings, therefore, constitute a binding set of obligations that will come into effect when the City formally approves the proposed Project.

The adopted mitigation measures are included in the MMRP adopted concurrently with these Findings and will be effectuated through the process of implementation of the *Desert Valley Company Monofill Expansion Project, Cell 4.*

V. MITIGATION MONITORING PROGRAM

Pursuant to PRC §21081.6, the County has adopted a detailed mitigation and monitoring program prepared under the County's direction. The program is designed to ensure that all mitigation measures as hereafter required are in fact implemented on a timely basis as the Project is implemented.

As required by CEQA Section 21081.6 (a)(1), the County, in adopting these Findings, also concurrently adopts a MMRP. The program is designed to ensure that during implementation of the *Desert Valley Company Monofill Expansion Project, Cell 4*, all responsible parties comply with the feasible mitigation measures identified below in Section VII, Findings Regarding Significant Impacts, and attached herein as **Exhibit "__."** The County will use the MMRP to track compliance with Project mitigation measures. The MMRP will be available for the public to review by request during the mitigation compliance period, which is on-going following Project approval through buildout of the Project.

The monitoring program will serve the dual purpose of verifying completion of the mitigation measures for the Project and generating information on the effectiveness of the mitigation measures to guide future decisions.

VI. SUMMARY OF IMPACTS

The Final EIR contains an environmental analysis of the potential impacts associated with implementing the proposed Project. The Final EIR concludes that implementation of *Desert Valley Company Monofill Expansion Project, Cell 4* would result in **significant impacts that would be mitigated to below a level of significance** with respect to the following issue areas:

- Air Quality (Dust, NOx Emissions
- Biological Resources (Special Status Species, Sensitive Natural Communities, Jurisdictional Wetlands)
- Cultural Resources (Archaeological Resources, Unanticipated Discovery of Human Remains)
- Geology and Soils (Seismic Shaking, Paleontology)
- Hazards and Hazardous Material (Radiological Monitoring)
- Tribal Cultural Resources (Tribal Cultural Resources Deemed Significant by County of Imperial)
- Utilities and Public Services

The Final EIR did not identify any significant impacts that would not be reduced to below a level of significance upon adopted of all feasible mitigation measures.

VII. LESS THAN SIGNIFICANT IMPACTS (OR NO IMPACTS) IDENTIFIED IN THE FEIR

The Board of Supervisors agrees with the characterization in the Final EIR with respect to all impacts identified as "no impact" or "less than significant" and finds that those impacts have been described accurately and are less than significant as so described in the Final EIR.

This finding applies to the following impacts determined to be "less than significant" or "no impact" based on the analysis in the Initial Study (circulated with the NOP and provided in Appendix A-2 to the Draft EIR) or in the Chapter 8.0 Draft EIR, Environmental Effects Found Not to Be Significant. CEQA Guidelines Section 10591 requires a statement of findings for impacts found to be significant, but does not require a detailed description for impacts found to be less than significant or a detailed description and statement of findings where there was no impact.

Mitigation measures are not necessary for impacts with no impact or a less than significant impact.

VIII. FINDINGS OF SIGNIFICANT IMPACTS, REQUIRED MITIGATION MEASURES AND SUPPORTING FACTS

The County, having reviewed and considered the information contained in the EIR and the entire administrative record, including but not limited to the expert opinions of the County's professional planning staff and independent consultants familiar with the environmental conditions of the County and the facts and circumstances of the Project who prepared the EIR, finds pursuant to Public Resources Code §21081(a)(1) and Guidelines §15091(a)(1) that changes or alterations have been required in, or incorporated into, the Project which would mitigate, avoid, or substantially lessen to below a level of significance the following potential significant environmental effects identified in the EIR.

A. Air Quality

1. Air Quality Construction Emissions

Impact. The total exhaust emissions generated within each of the construction phases are shown in Final EIR Table 5.1-7. As shown in Final EIR Table 5.1-7, the project's daily construction emissions would not exceed the ICAPCD thresholds for CO, ROG, NOx, and PM10. Although no significant air quality impact would occur during construction, all construction projects within Imperial County must comply with the requirements of ICAPCD Regulation VIII for the control of fugitive dust. In addition, the ICAPCD's Air Quality Handbook lists additional feasible mitigation measures that may be warranted to control emissions of fugitive dust and combustion exhaust.

Finding. Pursuant to CEQA Guidelines §15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

Facts in Support of Finding. Based on the analysis provided in Chapter 5.1 of the Final EIR no significant air quality impact would occur during construction. However, all construction projects

within Imperial County must comply with the requirements of ICAPCD Regulation VIII for the control of fugitive dust. For this reason, to minimize fugitive dust and general construction emissions, fugitive dust control measures per ICAPCD Rules 801 and 804 are included as MM AQ-1 and MM AQ-2. Implementation of Mitigation Measures AQ-1 and AQ-2 would provide additional reduction strategies to further improve air quality and ensure that construction impacts would remain less than significant.

Mitigation Measure AQ-1 Prepare and Implement Dust Control Plan

Prior to commencing construction, the Applicant shall be required to submit a Dust Control Plan to the ICAPCD for approval. The Dust Control Plan will identify all sources of PM10 emissions and associated mitigation measures during the construction and operational phases (see Rule 801 F.2). The Applicant shall submit a "Construction Notification Form" to the ICAPCD 10 days prior to the commencement of any earthmoving activity. The Dust Control Plan submitted to the ICAPCD shall meet all applicable requirements for control of fugitive dust emissions, including the following measures designed to achieve the no greater than 20-percent opacity performance standard for dust control and address the following parameters:

- All disturbed areas, including bulk material storage that is not being actively used, shall be effectively stabilized; and visible emissions shall be limited to no greater than 20-percent opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps or other suitable material, such as vegetative groundcover. Bulk material is defined as earth, rock, silt, sediment, and other organic and/or inorganic material consisting of or containing particulate matter with 5 percent or greater silt content. For modeling purposes, it was assumed that watering would occur twice daily.
- All on-site unpaved roads segments or areas used for hauling materials shall be effectively stabilized. Visible emissions shall be limited to no greater than 20 percent opacity for dust emissions by restricting vehicle access, paving, application of chemical stabilizers, dust suppressants and/or watering.
- The transport of bulk materials on public roads shall be completely covered, unless 6 inches of freeboard space from the top of the container is maintained with no spillage and loss of bulk material. In addition, the cargo compartment of all haul trucks shall be cleaned and/or washed at the delivery site after removal of bulk material, prior to using the trucks to haul material on public roadways.
- All track-out or carry-out on paved public roads, which includes bulk materials that adhere to the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto the pavement, shall be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an urban area.
- Movement of bulk material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers, or by sheltering or enclosing the operation and transfer line except where such material

or activity is exempted from stabilization by the rules of ICAPCD.

Mitigation Measure AQ-2 NOx Emission Controls

The Applicant shall implement all applicable standard measures for construction combustion equipment for the reduction of excess NOx emissions as contained in the Imperial County CEQA Air Quality Handbook and associated regulations. These measures include:

- Use alternative-fueled or catalyst-equipped diesel construction equipment, including all off-road and portable diesel-powered equipment.
- Minimize idling time, either by shutting equipment off when not in use or reducing the time of idling to five minutes at a maximum.
- Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use. Replace fossil-fueled equipment with electrically driven equivalents (assuming powered by a portable generator set and are available, cost effective, and capable of performing the task in an effective, timely manner).
- Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing construction activity during the peak hour of vehicular traffic on adjacent roadways.
- Additional facts in support are found in EIR Sections 5.1 and 7.0 and in the EIR responses to comments relating to air quality.

B. Biological Resources

1. Impacts to Special Status Species (flat-tailed horned lizard, Palm Springs pocket mouse, burrowing owl, Le Conte trasher, nesting birds and breeding birds)

Impact. The Project would impact individual flat-tailed horned lizards and their habitats within the West Mesa Flat-Tailed Horned Lizard Species Management Area. The flat-tailed horned lizard is a Special Status Species. This species was observed within the BSA, directly adjacent to the Project site during the small mammal trapping Survey. The Project would also impact individual Palm Springs pocket mouse individuals and their habitats. The Palm Springs pocket mouse is a special status species. This species was observed in the natural habitat communities surrounding the Project site and along its northwestern edge. Burrowing owls and Le Conte thrasher were not present on the project site during the biological surveys; however suitable nesting and foraging habitat is present and they may be present at the start of project construction. If burrowing owls and/or Le Conte thrasher are present, project construction could result in take or other direct impacts, including loss of foraging habitat. Indirect impacts to burrowing owls and Le Conte thrasher could also result if they are present in the lands surrounding the project site and project construction produces dust, noise, or other disturbances to this species.

Finding. Pursuant to CEQA Guidelines §15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

Facts in Support of Finding. Based on the analysis provided in Section 5.2 of the Final EIR, the project's potentially significant impact would be mitigated to below a level of significance with implementation of Mitigation Measures BIO-1a, BIO-1b, BIO-2, and BIO-5 of the Final EIR as identified below. These measures would avoid take and reduce potential impacts to this species to below a level of significance by requiring pre-construction surveys, establishing avoidance buffers, and reducing other construction related impacts. These measures include monitoring methods, capture and relocation methods, and suitable relocation areas.

Mitigation Measure BIO-1a Mitigation of Impacts to flat-tailed horned lizards, Palm Springs pocket mouse, and their habitat

Prior to the initiation of any ground disturbances and the issuance of grading permits for Cells 4A or 4B, a Capture/Relocation Plan for flat-tailed horned lizard shall be prepared by a qualified biologist. The plan shall include preconstruction survey and monitoring methods, capture and relocation methods, and suitable relocation areas. The plan may include additional protection measures during construction including:

- Creating areas of land or small paths/culverts between project facilities for wildlife movement,
- Installing silt fencing around work areas to prevent migration of adjacent wildlife into impact areas,
- Installing pitfall traps in spring/summer/fall to trap any individuals that remain on the site for removal from work areas), and/or
- Biological monitoring during construction to inspect fencing and pitfall traps and relocate wildlife species out of harm's way, if required;
- Only persons authorized by the CFDW shall be permitted to handle flat-tailed horned lizards.
- Mitigation of FTHL shall be consistent with the Flat-tailed Horned Lizard Rangewide Management Strategy, 2003 Revision
- Prior to the initiation of any ground disturbances and the issuance of grading permits for Cells 4A or 4B, a Capture/Relocation Plan for flat-tailed horned lizard shall be prepared by a qualified biologist. The plan shall include preconstruction survey and monitoring methods, capture and relocation methods, and suitable relocation areas. The plan may include additional protection measures during construction including:
- The plan shall be approved by CDFW and the County of Imperial (or an agency delegated to oversee this program).
- Prior to the initiation of any ground disturbances and the issuance of grading permits for Cells 4A or 4B, a Capture/Relocation Plan for Palm Springs pocket mouse shall be prepared by a qualified biologist. The plan shall include preconstruction survey and monitoring methods, capture methods, and suitable relocation areas. The plan may include additional protection measures during construction including:

- Creating areas of land or small paths/culverts between project facilities for wildlife movement,
- Installing silt fencing around work areas to prevent migration of adjacent wildlife into impact areas,
- Implementing vegetation removal and initial ground disturbance activities between September and December if possible, avoiding the peak breeding season (March to May), and limiting activity as much as possible during the rest of the breeding season (January to February and June to August) to allow dispersing juveniles to potentially move out of the impact area, and/or biological monitoring during construction to inspect fencing, if required.

- The plan shall be approved by CDFW and the County of Imperial (or an agency delegated by the department to oversee this program).
- An environmental training program shall be developed and presented to all crew members prior to the beginning of all project construction (See MM BIO-5).
- A biological monitor shall be present prior to initiation of ground disturbing activities to demark limit of disturbance boundaries. Flagging and/or staking will be used to clearly define the work area boundaries and avoid impacts to adjacent native communities. The biological monitor will be present to conduct preconstruction sweeps and inspect compliance with project protection measures. If a sensitive species is found, the species shall be relocated out of harm's way according to the capture/relocation plan. Any mortalities shall be reported to the agencies and County of Imperial. A final monitoring report will be submitted to CDFW and County of Imperial. The annual report shall include a summary of preconstruction surveys, biological monitoring, avoidance measures implemented, and whether the avoidance measures were effective.
- A qualified biologist shall work with construction crews to determine access routes that will avoid native habitat and burrows as much as feasible. Furthermore, during construction activities, the biological monitor shall ensure that connected, native habitat with sandy soils are avoided and remain intact to the greatest extent possible. If vegetation removal cannot be avoided, clearing of habitat shall be avoided during the peak breeding season (March to May), and activity shall be limited as much as possible during the rest of the breeding season (January to February and June to August).

Mitigation Measure BIO-1b Burrowing Owl Preconstruction Surveys

While the 2019 Burrowing Owl Survey concluded that this species is absent from the project area, given the phased approach for construction of Cells 4A and 4B, Burrowing Owl Preconstruction Surveys will be required.

Pre-construction focused surveys for the burrowing owl shall be conducted, pursuant to the CDFW 2012 Staff Report on Burrowing Owl Mitigation (Staff Report), no less than 14 days prior to the start of initial ground disturbing activities for Cells 4A and Cell 4B, respectively,

to ensure no portion of the construction footprint is being utilized by western burrowing owls. The survey shall be conducted by an experienced and qualified biologist, knowledgeable with the species. In conformance with federal and State regulations regarding the protection of raptors, surveys for burrowing owls shall be conducted in conformance with the California Staff Report's protocols, or updated guidelines as they become available.

If burrowing owls are detected on site, no ground-disturbing activities will be permitted within 656 feet of an occupied burrow during the breeding season (February 1 to August 31), unless otherwise authorized by CDFW. During the nonbreeding season (September 1 to January 31), ground-disturbing work can proceed near active burrows as long as the work occurs no closer than 165 feet from the burrow. Depending on the level of disturbance, a smaller buffer may be established in consultation with CDFW.

If avoidance of active burrows is infeasible during the nonbreeding season, then, before breeding behavior is exhibited and after the burrow is confirmed empty by site surveillance and/or scoping, a qualified biologist shall implement a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 Staff Report. Passive relocation consists of excluding burrowing owls from occupied burrows by closing or collapsing the burrows and providing suitable artificial burrows nearby for the excluded burrowing owls.

Where required buffering will not be feasible, passive relocation is an option in consultation with CDFW, but it is preferred to install appropriate artificial burrows (in accordance with the negotiated Plan) and then let the owls decide whether they would like to abandon the existing burrow. Only burrows that are in danger by construction should be collapsed if at all possible.

A Burrowing Owl Relocation Plan will be prepared and approved by CDFW prior to commencement of burrowing owl exclusion activities if this method of mitigation is required. The plan will detail the procedures of the passive relocation effort, the location of constructed replacement burrows, design of replacement burrows, and post relocation monitoring requirements.

Mitigation Measure BIO-2 Mitigation of Impacts to Le Conte Thrasher, Nesting Birds and Breeding Birds

While the 2019 surveys concluded that Le Conte Trasher is absent from the project area, given the phased approach for construction of Cells 4A and 4B, Preconstruction Surveys will be required.

- Prior to any site disturbance (i.e., mobilization, staging, grading or construction) the Applicant shall retain a County qualified biologist to conduct pre-construction surveys for nesting birds and Le Conte Thrasher in all areas within 500 feet of construction activities to comply with CDFW Code 3503 and 3503.5 and the Migratory Bird Treaty Act in effect at the time of the surveys. Surveys for raptors shall be conducted for all areas from February 1 to August 15.
- The survey(s) shall occur no more than 7 days prior to initiation of proposed Project activities, and any occupied passerine and/or raptor nests occurring within or

adjacent to the proposed Project area shall be delineated. Additional follow-up surveys may be required by the resource agencies and the County of Imperial.

- If breeding birds with active nests are found prior to or during construction, a biological monitor shall establish a 300-foot buffer around the nest for ground-based construction activities (or within a buffer determined by the avian biologist). In all cases, the buffer zone shall be sufficient in size to prevent impacts to the nest and no activities will be allowed within the buffer(s) until the young have fledged from the nest or the nest fails.
- Once nesting has ceased, the buffer may be removed. A nesting bird survey report shall be provided to the County of Imperial within 30 days of survey completion.
- If active Le Conte's Thrasher nests are located on the project site or within a 500-foot buffer, then a 500-foot no-work buffer will be established around the nest during the Le Conte's thrasher breeding season until it is no longer active.

Mitigation Measure BIO-5 Prepare and Implement a Worker Environmental Awareness Program

The Applicant shall prepare and implement a project-specific Worker Environmental Awareness Program (WEAP) to educate on-site workers about the Proposed Project's sensitive environmental issues. The WEAP shall be presented by the lead biologist or a biological monitor to all personnel on-site during the construction phase(s). If the WEAP presentation is recorded on video, it may be presented by any competent project personnel. Throughout the duration of construction, the Applicant shall be responsible for ensuring that all on-site project personnel receive this training prior to beginning work. A construction worker may work in the field along with a WEAP-trained crew for up to 5 days prior to attending the WEAP training. The Applicant shall maintain a list of all personnel who have completed the WEAP training. This list shall be provided to the County ICPDSD personnel upon request.

The WEAP shall consist of a training presentation, with supporting written materials provided to all participants. At least 60 days prior to the start of ground-disturbing activities, the Applicant shall submit the WEAP presentation and associated materials to the County ICPDSD for review and approval in consultation with the USFWS and CDFW.

The WEAP training shall include, at minimum:

Overview of the federal and state Endangered Species Acts, Migratory Bird Treaty Act, and the consequences of non-compliance with these acts.

Overview of the project mitigation and biological permit requirements, and the consequences of non-compliance with these requirements.

Sensitive biological resources on the project site and adjacent areas, including nesting birds, special-status plants and wildlife and sensitive habitats known or likely to occur on the project site, project requirements for protecting these resources, and the consequences of non-compliance.

Construction restrictions such as limited operating periods, Environmentally Sensitive Areas (ESAs), and buffers and associated restrictions, and other restrictions such as no grading areas, flagging or signage designations, and consequences of non-compliance.

Avoidance of invasive weed introductions onto the project site and surrounding areas, and description of the project's weed control plan and associated compliance requirements for workers on the site.

Function, responsibilities, and authority of biological and environmental monitors and how they interact with construction crews.

Requirement to remain within authorized work areas and on approved roads, with examples of the flagging and signage used to designate these areas and roads, and the consequences of non-compliance.

Procedure for obtaining clearance from a biological monitor to enter a work site and begin work (including moving equipment), and the requirement to wait for that clearance.

Nest buffers and associated restrictions and the consequences of non-compliance. Procedure and time frame for halting work and removing equipment when a new buffer is established. Discussion of nest deterrents.

Explanation that wildlife must not be harmed or harassed. What to do and who to contact if dead, injured, or entrapped animals are encountered.

General safety protocols such as hazardous substance spill prevention, containment, and cleanup measures; fire prevention and protection measures; designated smoking areas (if any) and cigarette disposal; safety hazards that may be caused by plants and animals.

Project requirements that have resulted in repeated compliance issues on other recent transmission line projects, such as dust control, speed limits, track out (dirt or mud tracked from access roads or work sites onto paved public roads or other areas), personal protective equipment (PPE), work hours, working prior to clearance, and waste containment and disposal.

Printed training materials, including photographs and brief descriptions of all special status plants and animals that may be encountered on the project, including behavior, ecology, sensitivity to human activities, legal protection, penalties for violations, reporting requirements and procedures, and protection measures. The material shall also include the function of flagging designated authorized work areas along with the importance of exercising care when commuting to and from the project area to reduce mortality of all special status animals.

Contact information for construction management, and contractor environmental personnel, and who to contact with questions.

Training acknowledgment form to be signed by each worker indicating that they understand and will abide by the guidelines, and a hardhat sticker so WEAP attendance may be easily verified in the field.

WEAP Lite. An abbreviated version of WEAP training ("WEAP lite") may be used for

individuals who are exclusively delivery drivers or visitors to the project site, and will be provided by a qualified project biologist, biological monitor, or environmental field staff prior to those individuals entering or working on the project.

Short-term visitors (total of 5 days or less per year) to the project site who will be riding with and in the company of WEAP-trained project personnel for the entire duration of their visit(s) are not required to attend WEAP or WEAP lite training. WEAP lite presentations shall be tailored to delivery/concrete truck drivers and visitors as well as the situation and emphasize project requirements that are relevant to those individuals and that situation.

WEAP Refreshers. Biological monitors or environmental field staff will periodically present brief WEAP refresher presentations at tailboards to help construction crews and other personnel maintain awareness of environmental sensitivities and requirements. A 5- to 10-minute informal talk will be presented at each of the project's main contractor/ subcontractor tailboards at least once a week.

When a contractor or subcontractor resumes work after a long break, a biological monitor or environmental field staff will provide an extended WEAP refresher presentation (10-20 minutes) at each of the contractor/subcontractor tailboards on the first day back to work.

2. Impacts on Riparian Habitats or Other Sensitive Natural Communities

Impact. The proposed Project would result in the temporary loss of 0.7 acres of Desert Riparian Scrub, a loss of 39.73 acres (5.76 acres temporary and 33.97 acres permanent) of Creosote Brush Scrub, a loss of 0.69-acre (0.16 acre temporary and 0.53 acre permanent) Creosote Bush – Honey Mesquite Scrub, and a permanent loss of 1.57 acre of Rigid Spineflower – Hairy Desert Sunflower Sparsely Vegetated Desert Pavement Alliance. The loss of riparian habitat and sensitive natural communities would be considered a significant impact.

Finding. Pursuant to CEQA Guidelines §15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

Facts in **Support of Finding.** Based on the analysis provided Section 5.2 of the Final EIR, the project's potentially significant impact would be mitigated to below a level of significance with implementation of Mitigation Measures BIO-3 of the Final EIR. Mitigation Measure BIO-3 would require a qualified biologist to evaluate the habitat to determine if restoration is possible and if so, prepare a Restoration Plan detailing all efforts, reducing the impact to a level less than significant.

Mitigation Measure BIO-3 Mitigation of Impacts to Creosote Bush Scrub, Creosote Bush – Honey Mesquite Scrub, Rigid Spineflower – Hairy Desert Sunflower Sparsely Vegetated Desert Pavement Alliance, and Riparian Habitat (Tamarisk – Honey Mesquite – Four Wing Saltbush Scrub)

Prior to construction, a qualified restoration specialist shall evaluate the habitats within the areas to be temporarily disturbed/impacted to determine if habitat restoration is possible. Habitat restoration may not be possible given prevailing winds and the potential inoculation

of additional invasive species from adjacent areas.

If the specialist determines restoration is possible, then a Habitat Restoration Plan (HRP) for the temporarily impacted area shall be prepared. The plan shall include sufficient detail to address all aspects of the restoration effort (further site evaluation, site preparation, planting, maintenance, and monitoring to determine success (i.e., plant survival, etc.) and additional maintenance needs. In general restoration of temporarily impacted areas involves recontouring the land, decompaction, replacing the topsoil (if collected), planting seed and/or container stock, maintaining (i.e., weeding, replacement). Locations within Section 27, adjacent to the Project site and under the control of the Applicant, will be used for off-site restoration, if on-site restoration is not feasible.

3. Impacts on Wetlands

Impact. The proposed Project would cause temporary and permanent direct impacts to drainages. Approximately 7.37 acres within the Project are considered streambeds under California Fish and Game Code and are regulated by the CDFW. Temporary and permanent impacts to streambeds would be 2.64 acres and 4.73 acres, respectively. Approximately 6.15 acres within the Project are considered Waters of the State by the RWQCB and are jurisdictional under Section 401 of the Clean Water Act. Temporary and permanent impacts to Waters of the State would be 2.2 acres and 3.95 acres, respectively. These impacts would be substantial and significant as they would result in a loss of associated functions and values.

Finding. Pursuant to CEQA Guidelines §15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

Facts in Support of Finding. Based on the analysis provided Section 5.2 of the Final EIR, the project's potentially significant impact would be mitigated to below a level of significance with implementation of Mitigation Measures BIO-4 and MM-BIO6 of the Final EIR. Mitigation Measure BIO-4 would require recontouring to the natural grade and restoration to the appropriate type of wetland at a 2:1 ratio. Mitigation Measure BIO-4 would require the Project to comply with state regulations for impacts to jurisdictional resources and acquire all state agency permits for the Project. These measures would reduce the impact to a level less than significant.

Mitigation Measure BIO-4 Mitigation of Impacts to Jurisdictional Waters

Permanent impacts to all jurisdictional resources shall be compensated through a combination of habitat creation (i.e., establishment), enhancement, preservation, and/or and restoration at a minimum of a 2:1 ratio or as required by the permitting agencies. Any creation, enhancement, preservation, and/or restoration effort shall be implemented pursuant to an HRP, which shall include success criteria and monitoring specifications, and shall be approved by the permitting agencies and County of Imperial. A habitat restoration specialist ( )will be designated and approved by the permitting agencies and will determine the most appropriate method of restoration. The restoration plan will be submitted to and reviewed/approved by the CDFW, and the County of Imperial Planning and Development Services Department.

Temporarily impacted drainage features shall be recontoured to preconstruction conditions. Temporary impacts shall be restored sufficient to compensate for the impact to the satisfaction of the permitting agencies (depending on the location of the impact). If restoration of temporary impact areas is not possible to the satisfaction of the appropriate agency, the temporary impact shall be considered a permanent impact and compensated accordingly.

A biological monitor shall be present prior to the initiation of ground disturbing activities to demark limits of disturbance boundaries. Flagging and/or staking will be used to clearly define the work area boundaries and avoid impacts to adjacent drainage features.

Erosion protection and sediment control BMPs would be implemented in compliance with the General Construction General Permit and the Stormwater Pollution Prevention Plan (SWPPP).

Graded areas would be stabilized to promote infiltration and reduce run-off potential.

Any excess soil would be spread on site outside of jurisdictional drainages.

Mitigation Measure BIO-6 State Agency Permits

To comply with the state regulations for impacts to jurisdictional resources regulated by the California Department of Fish and Wildlife and the Regional Water Quality Control Board, the following permits and agreement(s) shall be obtained, or evidence shall be provided from the respective resource agency satisfactory to the County that such an agreement or permit is not required if development activities are proposed within jurisdictional waters:

A Clean Water Act Section 401 permit issued by the RWQCB for all Project-related disturbances of jurisdictional non-wetland waters of the State.

A Section 1602 Streambed Alteration Agreement issued by the CDFW for all Project-related disturbances of any streambed and associated riparian habitat.

C. Cultural Resources

1. Archaeological Resources

Impact. A records search at the CHRIS SCIC identified that 15 cultural resource studies have previously been completed within the 0.5-mile radius of Section 33, ten (10) of which were conducted for the Desert Valley Company Monofill dating back to 1983. The record search also identified that 75 cultural resources had been recorded within a 0.5-mile radius of Section 33, 46 of which are located within Section 33. The pedestrian survey identified 10 new isolated artifacts, which are not considered significant under CEQA. The survey also updated four (4) previously recorded archaeological sites (CA-IMP-6144, CA IMP 6145, CA-IMP-6262, and CA-IMP-6269) within Section 33. Two (2) previously recorded archaeological resources (CA-IMP-6145 and CA-IMP-6146) were identified during the archaeological record search and pedestrian survey. Site CA-IMP-614 has been identified as eligible to the CRHR and NRHP and it is recommended that CA-IMP-6145 be eligible for inclusion on the CRHR. The Project does not include any ground disturbing activities near either of these sites, and both will be avoided by the Project. Ground disturbing activities associated with the proposed Project during construction would have the

potential to cause substantial adverse changes to resources that escaped detection on the survey and/or buried prehistoric and historic resources due to the moderately high potential of the Project area. This potential impact is considered significant.

Finding. Pursuant to CEQA Guidelines §15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

Facts in Support of Finding. Based on the analysis provided in Section 5.3 of the Final EIR, the project's potentially significant impact would be mitigated to below a level of significance with implementation of Mitigation Measures CUL-1, CUL-2, and CUL-3 of the Final EIR.

Mitigation Measure CUL-1 Cultural Resources and Native American Construction Monitor

A cultural resources monitor shall be present during all initial excavation or other earth-moving activities associated with construction of Cell 4A and Cell 4B and ancillary improvements. The monitoring shall consist of the full-time presence of a Qualified Archaeologist who meets or exceeds the Secretary of the Interior Professional Qualifications Standards as an archaeologist and a TCA (traditionally and culturally affiliated) Native American Monitor.

The Applicant shall immediately notify the Imperial County Planning and Development Services Department if any undocumented and/or buried prehistoric or historic resource is uncovered. All construction must stop in the vicinity of the find until the find can be evaluated for its eligibility for listing in the CRHR. The cultural resources monitor shall have the authority to halt construction activity in the immediate vicinity of the encountered historic resource for a sufficient interval of time to allow avoidance or recovery of the encountered historic resources and shall also have the authority to redirect construction equipment in the event that any cultural resource is inadvertently encountered. All cultural resources are assumed to be eligible for the CRHR until determined otherwise by the monitor. Work will not resume in the area of the discovery until authorized by the monitor.

Mitigation Measure CUL-2 Delineate Environmentally Sensitive Areas

Prior to the construction permit issuance, the Applicant shall delineate on a confidential copy of project plans provided to the County, Environmentally Sensitive Areas (ESAs). ESAs will encompass the site boundary of two sites deemed significant under CEQA (CA-IMP-6141 and CA-IMP-6145) plus a 200-foot buffer around the site(s). ESAs shall be staked and/or flagged in a conspicuous manner prior to the commencement of construction. To ensure the integrity of these areas from unauthorized disturbance or collection, the delineated areas shall not be labeled with regard to the specific type of cultural resource identified as sensitive. Spot checking by a qualified archaeologist shall be completed throughout construction to ensure ESAs are not entered. If it is necessary for the Project to encroach on any ESA, full time monitoring by a qualified archaeologist, who is approved by the County, will be required to ensure there are no impacts to the archaeological site. If avoidance is not an option, then a data recovery program shall be undertaken.

Mitigation Measure CUL-3 Data Recovery Program

The Project was designed to avoid and preserve archaeological resources in place where possible. Where avoidance and preservation is not possible, data recovery through excavation is the most feasible mitigation. Prior to excavation, a data recovery plan must be prepared that makes provision for adequately recovering the scientifically consequential information from and about the historical resource. Data recovery includes the documentation, recordation, and removal of the archeological deposit from a project site in a manner consistent with professional (and regulatory) standards; and the subsequent inventorying, cataloguing, analysis, identification, dating, interpretation of the artifacts and "ecofacts" & the production of a report of findings.

2. Human Remains

Impact. During the construction phases of the proposed Project, grading, excavation and trenching will be required. While no potential human remains have been identified in the Project area, there remains a possibility that human remains are present beneath the ground surface, and that such remains could be exposed during project construction. The potential to encounter human remains is considered a significant impact.

Finding. Pursuant to CEQA Guidelines §15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

Facts in Support of Finding. Based on the analysis provided in Section 5.3 of the Final EIR, the project's potentially significant impact to human remains would be mitigated to below a level of significance with implementation of Mitigation Measure CUL-4, provided below from the Final EIR. This measure requires that construction be halted in the area where the remains are found and the procedures set forth in Section 7050.5 of the Health and Safety Code, Section 5097.98 of the PRC, and Section 5097.94 of the PRC be followed, and AB 2641, as applicable.

Mitigation Measure CUL-4 Unanticipated Discovery – Human Remains

In the event that evidence of human remains is discovered, construction activities within 200 feet of the discovery will be halted or diverted and the Imperial County Coroner will be notified (Section 7050.5 of the Health and Safety Code). If the Coroner determines that the remains are Native American, the Coroner will notify the NAHC, which will designate a most likely descendant (MLD) for the project (Section 5097.98 of the PRC). The designated MLD then has 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains (AB 2641). If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (Section 5097.94 of the PRC). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (Section 5097.98 of the PRC). This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a document with the county in which the property is located (AB 2641).

D. Geology and Soils

1. Seismic Ground Shaking and Unstable Geologic Conditions

Impact. The Project site is located within an active seismic region, therefore, Project-related structures could be subject to damage from seismic ground shaking and related secondary geologic hazards, including seismically-induced failure of sloped embankments.

Finding. Pursuant to CEQA Guidelines §15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

Facts in Support of Finding. Based on the analysis provided in Section 5.4 of the Final EIR, the project's potentially significant impact would be mitigated to below a level of significance with implementation of Mitigation Measure GEO-1 of the Final EIR. This measure includes additional analysis of the Project site will be conducted to evaluate potential impacts associated with repeatable high ground acceleration, localized liquefaction potential, expansive and reactive soils, and wind generated erosion. Project design features derived from these analyses, including, but not limited to incorporating into the Project the appropriate design of fill slopes associated with berms, storage/disposal facilities, building pads, etc., to minimize the potential for seismically-induced landslides will reduce potential impacts to below a level of significance.

Mitigation Measure GEO-1 Reduce Effects of Groundshaking

Prior to issuance of construction permits, the design-level geotechnical investigations shall be conducted and shall include site-specific seismic analyses to evaluate ground accelerations for design of project components. Based on these findings, project structure designs shall be modified/strengthened to:

- Comply with all California Code of Regulations, Title 27, and the Regional Water Quality Control Board (RWQCB) and County of Imperial standards regarding the nature, location, and construction of proposed facilities, including, but not limited to Section 20370, which requires all Class II waste disposal facilities to be designed to withstand the maximum credible earthquake (MCE) without damage to the foundation or to the structures which control leachate, surface drainage, or erosion, or gas.
- Incorporate peak ground acceleration loading values of 0.48g as documented in the Site-Specific Seismic Hazards Memorandum for the Cal Energy DVC Cell 4 Project prepared by Geosyntec Consultants (Geosyntec Consultants, September 2021; Appendix I-8).
- Incorporate all measures deemed appropriate by the geotechnical engineer. Prior to the issuance of building permits, additional analysis of the project site shall be conducted to evaluate potential impacts associated with repeatable high ground acceleration, localized liquefaction potential, expansive and reactive soils, and wind generated erosion. Mitigation measures derived from these analyses may include

the following types of requirements:

- Overexcavation of unsuitable base materials and replacement with approved and properly compacted structural fill;
- Use of moisture, chemical, engineering, and/or drainage methods to control expansive behavior of underlying clay soil, if appropriate;
- Use of non-steel or coated (usually polyethylene encasement) conduits, sulfate resistant cement, or other protective materials in areas of corrosive soils;
- Appropriate design of fill slopes associated with berms, storage/disposal facilities, building pads, etc., to minimize the potential for seismically-induced landsliding. This may include measures such as establishing maximum slope grades and the use of stabilizing materials or buttressing;
- Proper design of surface and subsurface drainage devices. Initiation of settlement monitoring if appropriate;
- Appropriate design, location, and construction of erosion control methods and devices;
- Scarification and recompaction of the native soils in all fill areas to reduce erosion potential; and,

2. Paleontological Resources

Impact. The Project site is underlain by the Brawley Formation (early to middle Pleistocene) and the Lake Cahuilla Beds (late Pleistocene to Holocene), both of which have a high paleontological sensitivity. The current project area contains an above average potential for paleontological resources. Therefore, any project-related ground disturbances within these formations from the construction of Cell 4A, Cell 4B and/or ancillary facilities could result in an adverse impact to non-renewable fossil resources and impacts are potentially significant.

Finding. Pursuant to CEQA Guidelines §15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

Facts in Support of Finding. Based on the analysis provided in Section 5.4 of the Final EIR, the project's potentially significant impact would be mitigated to below a level of significance with implementation of Mitigation Measures PAL-1 through PAL-4 of the Final EIR. These mitigation measures requires a qualified paleontologist to be retained, provide paleontological environmental awareness training, prepare a Paleontological Resource Mitigation and Monitoring Plan, and procedures for monitoring, fossil preparation and identification, curation of specimens into an accredited repository, and preparation of a report at the conclusion of the monitoring program.

Mitigation Measure PAL-1 Retain Qualified Project Paleontologist

Prior to the start of ground disturbance for the construction of Cell 4A and prior to the start of ground disturbance for Cell 4B, a qualified paleontologist shall be retained by the Applicant to serve as Project Paleontologist. The qualifications of the Project Paleontologist shall be submitted to the Imperial County Planning and Development Services Department (ICPDSD) for approval. This individual shall have the following qualifications:

- Professional instruction in a field of paleontology relevant to the work proposed (vertebrate, invertebrate, trace, paleobotany, etc.), obtained through:
  - Formal education resulting in a graduate degree from an accredited institution in paleontology, or in geology, biology, botany, zoology or anthropology if the major emphasis is in paleontology; or
  - Equivalent paleontological training and experience including at least 24 months under the guidance of a professional paleontologist who meets qualification; and
- Demonstrated experience in collecting, analyzing, and reporting paleontological data;
- Demonstrated experience in planning, equipping, staffing, organizing, and supervising crews;
- Demonstrated experience in carrying paleontological projects to completion as evidenced by completion and/or publication of theses, research reports, scientific papers and similar documents.
- The Project Paleontologist will serve as the Principal Investigator (PI) and is responsible for the performance of all other personnel. This person is also the contact person for the Applicant and the ICPDSD.
- Additional Paleontological Staff – The Project Paleontologist may obtain the services of Paleontological Field Agents, Field Monitors, and Field Assistants, if needed, to assist in mitigation, monitoring, and curation activities.

Mitigation Measure PAL-2 Provide Paleontological Environmental Awareness Training

The Applicant will provide worker's environmental awareness training on paleontological resources protection as part of its Worker Environmental Awareness Program (WEAP) required under Mitigation Measure BIO-5 - Prepare and implement a Worker Environmental Awareness Program. This training may be administered by the Project Paleontologist as a stand-alone training or included as part of the overall worker's environmental awareness training. At a minimum, the training shall include the following:

- Types of fossils that could occur at the project site;
- Types of lithologies in which the fossils could be preserved;
- Procedures that should be followed in the event of a fossil discovery; and
- Penalties for disturbing paleontological resources.

Mitigation Measure PAL-3 Prepare and Implement a Paleontological Resource Mitigation and Monitoring Plan (PRMMP)

Prior to the start of construction of Cell 4A and 4B, the Applicant shall submit a Paleontological Mitigation and Monitoring Plan (PRMMP) for the Project to the ICPDSD for review and approval. The PRMMP shall be prepared and implemented during the construction of Cell 4A and Cell 4B under the direction of the Project Paleontologist and shall address and incorporate mitigation measures PAL-1, PAL¬ 3 and PAL 4. The PRMMP shall be based on Society of Vertebrate Paleontology (SVP) assessment and mitigation guidelines and meet all regulatory requirements. A monitoring plan indicates the avoidance or treatments recommended for the area of the proposed disturbance and must at a minimum address the following:

- Identification and mapping of impact areas of high paleontological sensitivity that will be monitored during construction;
- A coordination strategy to ensure that a qualified paleontologist will conduct monitoring at the appropriate locations at the appropriate intensity;
- The significance criteria to be used to determine which resources will be avoided or recovered for their data potential;
- Procedures for the discovery, recovery, preparation, and analysis of paleontological resources encountered during construction, in accordance with standards for recovery established by the SVP;
- Provisions for verification that the Applicant has an agreement with a recognized museum repository for the disposition of any recovered fossils
- Specifications that all paleontological work undertaken shall be carried out by qualified paleontologists;
- Description of monitoring reports that will be prepared which shall include daily logs, monthly reports, and a final monitoring report with an itemized list of specimens found to be submitted to the ICPDSD, the Applicant and the designated repository within 90 days of the completion of monitoring;
- The implementation sequence and the estimated time frames needed to accomplish all project-related tasks during the ground-disturbance phases; and
- Person(s) expected to perform each of the tasks, and their responsibilities, shall be identified.
- All impact-avoidance measures (such as flagging or fencing) to prohibit or otherwise restrict access to sensitive resource areas that are to be avoided (if any) during ground disturbance/ construction shall be described. Any areas where these measures are to be implemented shall be identified. The description shall address how these measures would be implemented prior to the start of ground disturbance and how long they would be needed to protect the resources from project-related impacts.

Mitigation Measure PAL-4 Paleontological Monitoring

- The Applicant shall continuously comply with the following during all ground disturbing activities during the project:
- Areas within the Project work areas with high paleontological sensitivity shall be plotted on the main project map and all ground disturbing activity in these areas shall be monitored on a full-time basis by an ICPDSD approved Paleontological Field Agent who will work under the supervision of the paleontologist and principal investigator.
- The level of effort and intensity for monitoring shall be modified as needed by the Project Paleontologist, based on the sediment types, depths, and distributions observed.
- Project activities shall be diverted when data recovery of significant fossils is warranted, as determined by the Project Paleontologist. Monitoring shall be conducted as follows:
  - Monitoring of ground disturbance shall consist of the surface collection of visible vertebrate and significant invertebrate fossils within the project site. Upon discovery of paleontological resources by paleontologists or construction personnel, work in the immediate area of the find shall be halted and diverted and the Project Paleontologist shall be notified. Once the find has been inspected and a preliminary assessment has been made, the Project Paleontologist will notify the Applicant. The Applicant will notify the ICPDSD of the discovery within 24 hours.
  - Recovered specimens shall be prepared to a point of identification and curated into a repository with retrievable storage.
- All significant fossil specimens recovered from the Project site shall be treated (prepared, identified, curated, and catalogued) in accordance with the designated repository requirements.
- Samples shall be submitted to a laboratory, acceptable to the designated repository, for identification, dating, and microfossil and pollen analysis.
- Upon completion of the monitoring efforts,
- Within 90 days of the completion of monitoring effort(s), monitoring reports will be prepared and submitted to the ICPDSD, the Applicant and the designated repository.

E. Tribal Cultural Resources

Impact. Pursuant to Public Resources Code (PRC) Section 21080.3.1, upon determining that an Initial Study (IS) would be prepared for the proposed Project, the County initiated a plan to conduct consultation with California Native American Tribes traditionally and culturally affiliated with the project area. In addition to the Native American contact program conducted for the cultural resource investigations, and in conformance with rules enacted under AB 52 and SB 18,

the County, as CEQA lead agency for the proposed Project, initiated consultation with local Native American representatives to identify tribal cultural resources that may be affected by the Project. On November 19, 2018, the County sent notification letters to two (2) California Native American Tribes and/or their representatives initiating the 30-day period required by AB 52. Similarly, on November 21, 2018 the County sent notification letters to seventeen (17) federally-recognized California Native American Tribes and/or their representatives initiating a 45-day period required under SB 18. No responses have been received and formal consultation has been closed. However, based on knowledge of areas used by their ancestors and the stated potential to encounter resources during project construction, impacts to tribal cultural resources have the potential to be significant.

Finding. Pursuant to CEQA Guidelines §15091 (a)(1), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the FEIR.

Facts in Support of Finding. Based on the analysis provided in Section 5.11 of the Final EIR, Mitigation Measures CUL-1 through CUL-4 would ensure that the potential impacts on unidentified tribal cultural resources do not rise to the level of significance. These measures require construction monitoring by a Qualified Archaeologist who meets or exceeds the Secretary of the Interior Professional Qualifications Standards as an archaeologist and a TCA (traditionally and culturally affiliated) Native American Monitor. These measures also require the performance of professionally accepted and legally compliant procedures for the discovery of previously undocumented significant archaeological resources and human remains.

IX. CUMULATIVE IMPACTS

As analyzed in Chapter 7 of the Final EIR, cumulative impacts to cultural resources and paleontological resources, would be significant prior to implementation of project specific mitigation measures, and mitigation that would be required of other cumulative projects.

A. Air Quality

The Cumulative Effects Study Area (CESA) for comprehensive air quality analysis includes the entire Imperial Valley under the jurisdiction of the Imperial County Air Pollution Control District (APCD). The Project's contribution to cumulative air quality impacts would be different during construction and operations. The overall construction schedule for Cells 4A and 4B is approximately 12-months. The combined lifespan for both cells is estimated to be 56 years. All existing and foreseeable projects in Table 7-1 of the Final EIR may contribute to cumulative effects for air quality.

Based on the anticipated construction schedule and phasing of the proposed construction activities, the maximum construction emissions for Cell 4A and Cell 4B would range from 8.6 to 19.4 lbs/day of PM_{10}, which would not exceed the ICAPCD's threshold of 150 lbs/day. Construction of Cells 4A and 4B would also result in NOx emissions (an ozone precursor) that range from 10.1 to 32.4 lbs/day. Similar to the PM_{10} emissions, the maximum NOx emissions

would not exceed the ICAPCD's threshold of 100 lbs/day. During normal operations, the maximum emissions for Cell 4A or Cell 4B would be 2.4 lbs/day of PM_{10} and 8.1 lbs/day of NOx, which would not exceed established thresholds.

Project impacts would be reduced through the implementation of mitigation measures consisting of standard construction and operation measures required by the Imperial County Air Pollution Control District; therefore, the proposed Project would not make a cumulatively considerable incremental contribution to an existing significant cumulative air quality impact.

B. Biological Resources

Generally, the CESA for biological resources includes the entirety of the Imperial Valley. This extent (the entire Imperial Valley region) makes it possible to account for impacts to biological resources that may have restricted migration to and from adjacent physiographic regions due to habitat changes from region to region. The duration of time that the projects would contribute to cumulative effects would be approximately 56 years, which reflects the combined lifespans of Cell 4A and 4B. All existing and foreseeable future projects in Table 7-1 of the Final EIR may contribute to cumulative effects for biological and natural resources.

In conjunction with other potential cumulative projects, the proposed Project would not have a cumulatively considerable impact on biological resources. With the implementation of mitigation measures MM BIO-1 through MM BIO-6, the Project would be consistent with applicable policies of the Flat-tail horned lizard Management Strategy; impacts to the unvegetated, non-wetland, ephemeral waters (on-site) and would be fully mitigated and no-net-loss of wetlands would occur; and potential impacts to burrowing owl, Le Conte Thrasher and Pocket mouse would be avoided. Lastly, the Project's water use during construction, operations, closure and post-closure maintenance activities would not affect San Felipe Creek, a groundwater dependent ecosystem. For the above reasons, the Project's impacts on biological resources would be less than cumulatively considerable with mitigation.

C. Cultural and Tribal Resources

The CESA for cultural and paleontological resources consists of the Imperial Valley, including the southern portion of Riverside County. All foreseeable projects on Table 7-1 of the Final EIR may contribute to cumulative effects for cultural and tribal resources. The proposed Project has the potential to incrementally contribute to the disturbance of previously unknown cultural and paleontological resources.

With implementation of regulatory requirements and standard conditions of approval, and Mitigation Measures MM CUL-1.1 through MM CUL 1.4; MM CUL-2, MM CUL-3.1; and MM CUL-4, the proposed Project's contribution to cultural and tribal cultural resource impacts would not be cumulatively considerable.

D. Geology and Soils

The CESA for geology, soils, is confined to the Project site because geologic materials, and soils occur at specific locales and are generally unaffected by activities not acting on them directly or immediately adjacent to them. Therefore, Closure Activities associated with Cell 3 would be the only other project that could contribute to cumulative impacts on this resource at this location.

The proposed Project would not make a cumulatively considerable contribution to a significant cumulative impact to geology and soils. It is expected that the Project and other area development will comply with the IBC and the CBC. Thus, the proposed Project, when considered in combination with other past, present, and reasonably foreseeable projects would not result in significant cumulative impacts. Accordingly, the Project's contribution to a significant cumulative geology and soils impact is less than cumulatively considerable.

E. Paleontological Resources

The geographic scope of the cumulative setting for paleontological resources includes Lake Cahuilla, with deposits that are assigned a "High" paleontological sensitivity rating. Cumulative development occurring within the boundaries of Lake Cahuilla has the potential to destroy or otherwise impact paleontological resources. If present, paleontological resources beneath the Project area, as well as within the boundaries of the cumulative projects listed in Table 7-1 of the Final EIR, could be impacted during construction. A cumulative impact would occur if the Project, in combination with other cumulative projects, would damage or destroy paleontological resources. However, with the implementation of mitigation measures MM PAL-1 through MM PAL-4, compliance with regulatory requirements and standard conditions of approval, cumulative impacts to paleontological resources would not be cumulatively considerable.

F. Greenhouse Gas Emissions

For the proposed Project the CESA is the Imperial County portion of the Salton Sea Air Basin. In confining the analysis to this extent, it is possible to accurately calculate cumulative emissions and track the region's contribution to climate change. All existing and foreseeable projects listed in Table 7-1 of the Final EIR may have a cumulative effect on climate change. The climate change analysis conducted in the Greenhouse Gas Emission section is equivalent to a cumulative analysis. Please see Section 5.5.3 of this EIR.

G. Hazards and Hazardous Materials

For the purposes of this cumulative analysis, risk from the transport, use, and disposal of hazardous materials during construction would be limited to areas where concurrent construction or operations are occurring in very close proximity to each other. Therefore, the only project that may contribute to cumulative hazards and effects on public safety as a result of the transport, use, and disposal of hazardous materials are those that would occupy the same site which is Cell 3 Closure Activities.

1. Transport, Use, and Disposal of Hazardous Materials

Existing, approved, proposed and reasonably foreseeable projects in the CESA would not create a significantly cumulative hazard to the public through the routine transport, use, or disposal of hazardous materials.

A significant cumulative hazardous materials impact occurs if there is simultaneous uncontrolled release of hazardous materials from multiple locations in a form (gas or liquid) that could cause a significant impact where the release of one hazardous material alone would not cause a significant impact. For a significant impact of this nature to occur, the releases have to occur in a centralized location.

It is unlikely for an event such as this to occur during construction of Cells 4A or Cell 4B because spills and releases tend be localized and would be smaller than one that could occur during operations because they would only the volume of a container used at any one time. In addition, they would be addressed immediately per a SWPPP or Hazardous Material Business Plan.

During operations, a potential cumulative significant event could occur if an upset event at a nearby development had a cascading effect that caused an upset at the Project site. While this is theoretically possible, it is not very probable. The proposed Project will have its own fire suppression systems and hazardous materials business plan.

Other projects listed in Table 7-1 of the Final EIR would be or have been subject to similar project-specific or legally required control and mitigation measures and therefore there is no substantial evidence of a significant cumulative effect relating to hazards and public safety from the transport, use, and disposal of hazardous materials.

2. Interference with an Emergency Response Plan

Existing, approved, proposed and reasonably foreseeable projects in the CESA would not result in a significant cumulative impact associated with interference with an Emergency Response Plan. Cumulative impacts that would cause an interference with Emergency Response Plans would include infrastructure additions, such as adding a new railway crossing, road closures, road segment removal, or other such modifications. There is no substantial evidence indicating there is significant cumulative impact relating to the hindrance of emergency responses. Moreover, the proposed Project does not include any improvements that would physically interfere with an adopted emergency response plan or emergency evacuation plan

H. Hydrology and Water Quality

The CESA for hydrology and water quality is the Ocotillo-Clark Valley Groundwater Basin. Projects that may contribute to cumulative effects for hydrology and water quality include the following projects listed on Table 7-1 of the Final EIR:

- 9. Seville Solar Farm Complex (10.4 miles west)
- 28. Truckhaven Geothermal Exploratory Well Drilling (11.5 miles northwest)

- 19. Titan Solar II/Seville Solar 4 (9 miles west)
- 24. Desert Highway Farms Cannabis Cultivation (10.5 miles northwest)
- 29. Truckhaven Geothermal Seismic Exploration (8.9 miles northeast)
- 30. US Gypsum Company Expansion/ Modernization Project (19 miles southwest)

The proposed Project would not make a cumulatively considerable contribution to a significant cumulative impact to hydrology and water quality. Existing, approved and reasonably foreseeable projects would have to comply with SWPPPs during construction to ensure they would not violate any water quality standards or waste discharge requirements. Such projects would also have to comply with their respective NPDES Municipal Stormwater Permits, which require that water quality control measures be incorporated into project design to reduce discharges of site runoff over the life of the project. Large scale foreseeable projects would also have to include stormwater retention basins. During operations, the proposed Project will obtain and comply with coverage under the General Industrial Stormwater Permit which will require preparation of an Industrial SWPPP (I-SWPPP). The I-SWPPP will identify appropriate best management practices (BMPs) to prevent erosion and the mobilization of pollutants in stormwater runoff, define primary and alternative sampling locations, and describe monitoring and maintenance that will be implemented over the life of the Project. As a result, the proposed Project's contribution to water quality impacts would not be cumulatively considerable.

I. Land Use

The CESA for the analysis of cumulative impacts related to land use compatibility is the rural agricultural areas on the west side of the Salton Sea within the County of Imperial's jurisdiction.. Cumulative impacts could result from the physical division of an established community or from conflict with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating environmental impacts. As there would be no communities divided by the proposed Project, nor would there be a conflict with a land use plan, policy, or regulation, the Project's land use impact would not be cumulatively significant.

J. Noise

The CESA for the analysis of cumulative impacts related to noise is generally limited to areas within approximately one mile of the Project site and the transport haul routes. With the exception of the Cell 3 Closure activities, there are no potential cumulative projects within one-mile of the Project site or haul routes. The only foreseeable project near enough to the Project site to be included in the cumulative analysis is the Cell 3 Closure activities (i.e., at the proposed Project site). Given the nature of this foreseeable project, and its distance from the Sonny Bono Salton Sea National Wildlife Refuge and the Elmore Desert Ranch, and the County noise restrictions, noise from this cumulative project and proposed Project would not likely combine to create noise above 70 dBA or perceptible groundborne vibration during construction or operations at these receptors. Thus, Project's noise impact would be less than cumulatively considerable.

K. Transportation

The CESA for cumulative effects on transportation and circulation includes the local roadway network considered for analysis of the proposed project's direct impacts including SR 86/SR-78; SR 111; Forrester Road, Gentry Road, Bannister Road, Bowles Road, Lack Road and Sinclair Road. The proposed Project would make a cumulatively considerable contribution to a significant cumulative traffic impact on future (2040) operations.

During construction and operations, the proposed Project would add 63 and 198 daily trips to the regional transportation system, respectively. According to the Section 5.10 of the Final EIR, all affected road segments, key intersections, and affected highways would operate at acceptable levels of service during construction and operation of the Project. The Project would not contribute to a cumulatively significant impact.

L. Utilities and Service Systems

Impacts to utilities and service systems can occur if new facilities need water or power or generate wastewater requiring treatment that exceeds the existing or planned capacity of the local service providers. Because service providers serving the Project site are located in Imperial County; the CESA for cumulative impacts to utilities and services is limited to Imperial County. The duration of impacts would be the lifetime of the projects, but there would be different potential impacts during construction and operations. All existing and foreseeable projects in Table 7-1 of the Final EIR may contribute to cumulative effects for utilities and services. The proposed Projects would not make a cumulatively considerable contribution to a significant cumulative impact to utilities and services.

Construction and operation of the proposed Project would not require the construction or expansion of municipal water, wastewater treatment, or stormwater drainage facilities. The Project would exceed capacity of local landfills.

Construction of the proposed Project would require up to 111 AFY during construction of each phase and 11 AFY during operations, which would be obtained via groundwater from the Ocotillo-Clark Valley groundwater basin. Concurrent construction/operation of the other foreseeable projects within the basin, including Cell 3 closure and post-closure maintenance activities, will also meet water requirements with groundwater (Veizades & Associates, 2015).

The 7Water Supply Assessment included in the Final EIR that there is sufficient water available during both normal and single dry years. Therefore, the proposed Project's incremental demand for water would not be cumulatively considerable.

X. EFFECTS FOUND NOT TO BE SIGNIFICANT

CEQA Guidelines §15128 require that an EIR contain a brief statement disclosing the reasons why various possible significant effects of the Project were found not to be significant, and therefore would not be discussed in detail in the EIR. FEIR Chapter 8.0 identifies the following issues areas that will not be impacted by the Project – Aesthetics, Agriculture and Forestry

Resources, Energy, Mineral Resources, Population and Housing, Public Services (fire, police, schools, parks, and other facilities), Recreation, and Wildfire.

XI. FINDINGS REGARDING FEASIBLE ALTERNATIVES

Pursuant to CEQA Guidelines §15126.S(a), EIRs must "describe a range of reasonable alternatives to the project, or to the location of this project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."

CEQA establishes no categorical legal imperative as to the scope of alternatives to be analyzed in an EIR. To be legally sufficient, the consideration of project alternatives in an EIR must permit informed agency decision-making and informed public participation. The analysis of alternatives is evaluated against a rule of reason. Alternatives are suitable for study in an EIR if they meet all of the following thresholds: (1) substantially reduce or avoid the project's significant environmental impacts; (2) attain most of the basic project objectives; (3) are potentially feasible; and (4) are reasonable and realistic. (Guidelines §15126.6, Subds. (a), (c).) Candidate alternatives that do not satisfy these requirements may be excluded from further analysis. An EIR need not consider alternatives that would change the fundamental nature of the project or that cannot achieve the fundamental goals and purposes of the proposed project.

The alternatives to the Project are evaluated in Chapter 9.0 of the Final EIR in terms of their ability to meet the basic objectives of the Project, and eliminate or further reduce its significant environmental effects. Based on these parameters, the following alternatives were considered and analyzed in the EIR:

- Alternative 1-No Project/No Expansion Alternative
- Alternative 2-Alternative Project Site (Section 27)
- Alternative 3-Reduced Project Footprint Alternative

A. Alternative 1 - No Project/No Expansion

The State CEQA Guidelines require analysis of the No Project Alternative. According to §15126.6(e)(1) "[t]he specific alternative of 'no project' shall also be evaluated along with its impact." Additionally, according to CEQA Guidelines §15126.6(3)(2), the 'no project' analysis shall discuss the existing conditions at the time the notice of preparation is published, or if no notice of preparation is published, at the time environmental analysis is commenced, as well as what would be reasonably expected to occur in the foreseeable future if the project were not approved, based on the current plans and consistent with available infrastructure and community services.

Under the No Project/No Expansion Alternative (Alternative 1), the monofill would not be expanded to provide a new Cell 4. Operations of the monofill would continue as authorized under the existing conditional use permit, solid waste facility permit and waste discharge report.

Permitted non-hazardous geothermal waste from CalEnergy geothermal plants would continue to be disposed of within Cell 3, until its capacity is reached in January 2025. After that Cell 3 would be closed in accordance with the Preliminary Closure and Post Closure Maintenance Plan. Without the construction of Cell 4, non-hazardous geothermal waste would be transported to the Copper Mountain Landfill in Arizona for disposal.

The No Project/No Expansion Alternative (Alternative 1) would avoid the significant and potentially significant impacts to biological resources, cultural and tribal resources, and geology/soils (paleontological resources). However, the No Project Alternative could also result in greater long-term impacts associated with air quality, GHG emissions and traffic/transportation due to the increased waste haul route.

Finding. The County finds that Alternative 1 - No Project/No Expansion Alternative would avoid the significant impacts to biological, cultural, tribal and paleontological resources. However, transporting geothermal wastes to a permitted landfill would result in significant air quality and transportation impacts that would not occur with the proposed Project. Alternative 1 - No Project/No Expansion Alternative is not a feasible alternative, as defined by CEQA, because it would not meet any of the project objectives.

Facts in Support of Findings. Under the No Project/No Expansion Alternative (Alternative 1), the Monofill would not be expanded to provide a new Cell 4 and operations would continue as authorized under the existing conditional use permit, solid waste facility permit and waste discharge report. Implementation of the No Project/No Expansion Alternative (Alternative 1). Implememtation of the No Project/No Expansion Alternative (Alternative 1) would avoid the significant impacts to biological, cultural, tribal and paleontological resources; however, it would also result in significant air quality and transportation impacts. Additionally, the No Project/No Expansion Alternative (Alternative 1) would not satisfy any of the Project objectives.

B. Alternative 2 - Alternative Project Site (Section 27)

CalEnergy owns property adjacent to the existing Monofill, referred to in the final EIR as Section 27, Range 11 East, Township 12 South within the U.S. Geological Survey (USGS) Kane Spring, California 7.5-minute topographic quadrangle. Under the Alternative Project Site Alternative (Section 27), the new waste storage Cell 4 would be constructed at an alternative site within Section 27, as depicted on Figure 9-2 of the Final EIR. Implementation of the Alternative Project Site (Section 27) Alternative, existing support structures at Monofill, such as the offices, access roads, internal roads, septic systems, material storage areas, etc.) could not be used, and additional facilities would be required. Additionally, developing a new waste storage Cell 4 within Section 27 would likely be classified by the California Department of Resources, Recycling and Recovery as a new facility, requiring additional permitting.

Finding. The County Finds, pursuant to Public Resources Code Section 21081(a)(3), that the Alternative Project Site in Section 27 (Alternative 2) is infeasible because it would not avoid or reduce any of the significant impacts to cultural, tribal, biological or paleontological resources

identified for the proposed Project; and compared to the proposed Project would result in greater ground disturbance and increased costs due to the additional facilities that would be required.

Facts in Support of Findings. The purpose of studying alternatives to the proposed Project is to identify alternatives that would substantially reduce or avoid the significant environmental impacts of the Project. Implementation of Alternative 2 would not result in reduced impacts to biological, cultural, tribal or paleontological resources. This alternative would not result in any greater environmental impacts when compared to the proposed project. However, substantial evidence shows that all potentially significant environmental impacts of the proposed Project are mitigated below significant levels and that no significant unavoidable significant environmental impacts remain. Alternative 2 does not substantially reduce or avoid any significant impacts, since all of the Project's impacts are less than significant or have been mitigated to less than significant.

C. Alternative 3 - Reduced Project Footprint

Under Alternative 3, Reduced Project Alternative, the same expansion of the monofill would occur as described for the proposed Project; however, it would only include the construction of one waste disposal cell, either Cell 4A or 4B. As a result, there would be less site disturbance compared to the proposed Project. Other features of the proposed project (water use, chemical use, etc.) would be reduced proportionally. All environmental protection features described in Chapter 5.0 of the Final would be similar to those of the proposed Project.

Compared to the proposed Project, the Reduced Project Alternative would result in very similar, though slightly reduced, impacts to many environmental resources (aesthetics, agriculture resources, air quality, biological resources, cultural resources, geology, hydrology and water quality, traffic and transportation and GHGs).

Finding. The County finds, pursuant to Public Resources Code Section 21081(a)(3), that specific economic, legal, social, technological, or other considerations, make Alternative 3 infeasible.t

The Reduced Project Alternative (Alternative 3) would result in reduced impacts to air quality, biological resources, cultural resources, geology, hydrology and water quality, traffic and transportation, utilities and GHGs, when compared to the proposed Project, but would only provide one-half of the half of the waste disposal capacity and therefore only half of the lifespan of the Proposed Project. Therefore, this alternative would meet all of the project objectives, but to a substantially lesser degree than the proposed Project.

Facts in Support of Finding. The Reduced Project Alternative (Alternative 3) is not feasible because it would not meet the project objectives to the same extent. Overall, the Reduced Project Alternative would reduce impacts in most environmental issue areas as compared to the proposed Project. Additionally, under Alternative 3 the Project would have a reduced capacity and lifespan.

Attachment E: Resolution for the Mitigation Monitoring and Reporting Program

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, FOR A RECOMMENDATION OF APPROVAL TO THE BOARD OF SUPERVISORS ON THE MITIGATION MONTORING AND REPORTING PROGRAM FOR THE DESERT VALLEY COMPANY MONOFILL (DVCM) EXPANSION (CELL 4) PROJECT

WHEREAS, a Mitigation Monitoring and Reporting Program has been prepared in accordance with the requirements of the California Environmental Quality Act, the State CEQA Guidelines, and the County's Rules to Implement CEQA as amended; and

WHEREAS, the Planning Commission of the County of Imperial has been delegated with the responsibility of the consideration for recommendation to Board of Supervisors; and

WHEREAS, public notice of said application has been given, and the Planning Commission has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at a public hearing held with respect to this item on December 16, 2021.

NOW THEREFORE, the Planning Commission of the County of Imperial **DOES HEREBY RESOLVE** as follows:

SECTION 1. The Planning Commission has considered the proposed Mitigation Monitoring and Reporting Program (MM&RP) prior to making a decision to recommend that the Board of Supervisors adopt the proposed MM&RP. The Planning Commission finds and determines that the Environmental Impact Report is adequate and prepared in accordance with the requirements of the California Environmental Quality Act (CEQA), which analyzes environmental effects, based upon the following findings and determinations.

SECTION 2. That in accordance with CEQA, State Planning and Zoning law, Imperial County Land Use Ordinance and the County of Imperial General Plan, the following findings for recommending the approval of the MM&RP have been made as follows:

1. That the Final Project EIR **SCH #2019120605**, Candidate CEQA Findings for the DVCM Expansion (Cell 4) ("Project") have been prepared in accordance with the requirements of the California Environmental Quality Act, the State CEQA Guidelines, and the County's "Rules and Regulations to Implement CEQA as amended".

2. That the County has reviewed, analyzed, and considered Final Project EIR, the environmental impacts therein identified for this Project, the Candidate CEQA Findings, and the Mitigation Monitoring and Reporting Program, and the entire Record of Proceedings prior to approving this project.

3. That the Mitigation Monitoring and Reporting Program is designed to ensure that during project implementation, the Developer and any other responsible parties implement the Project components and comply with feasible mitigation measures identified in the CEQA Findings, the Project entitlements, and the Mitigation Monitoring and Reporting Program and that these measures are fully enforceable through permit conditions, agreements, and/or other measures, such as their inclusion in the Mitigation Monitoring and Reporting Program.

4. That the Project will not individually or cumulative have an unmitigated adverse effect on fish and wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

5. That the Record of Proceedings consists of the Final Project EIR (and all its technical reports and addendums thereto); the County staff reports; the CEQA Findings; the Mitigation Monitoring and Reporting Program; the various Project entitlements and documents referenced therein; all final reports, applications, memoranda, maps, letters, and other planning documents prepared by the EIR planning/environmental consultant; all final reports, memoranda, maps, letters, and other planning documents prepared by the County staff; all documents submitted by members of the public and public agencies in connection with the Final Project EIR; minutes and transcripts of all public meetings and public hearings; all written and verbal public testimony presented during a noticed public hearing for the proposed project which such testimony was taken and any and all other materials which constitute the record of proceeding pursuant to Public Resources Code section 21167.6(e); and matters of common knowledge to the County staff, Planning Commission, and Board of Supervisors, including, but not limited to the County General Plan, the County Zoning Ordinance, County policies, which may be found at the Clerk's Office located at 940 Main Street, Suite 209, El Centro, CA, 92243 during regular business hours, and the Imperial County Planning & Development Services Department at 801 Main Street, El Centro, CA 92243.

6. That the County Planning Commission does recommend to the Board of Supervisors to adopt the Mitigation Monitoring and Reporting Program.

NOW, THEREFORE, based on the above findings, the **IMPERIAL COUNTY PLANNING COMMISSION DOES HEREBY RECOMMEND TO THE BOARD OF SUPERVISORS TO APPROVE the** Mitigation Monitoring Reporting Program for the DVCM Expansion (Cell 4) Project.

_____

Rudy Schaffner, Chairperson
Imperial County Planning Commission

I hereby certify that the preceding resolution was taken by the Planning Commission at a meeting conducted on **December 16, 2021** by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____

Jim Minnick, Director of Planning & Development Services
Secretary to the Planning Commission

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
5.1 Air Quality			
Impact 5.1-1: Conflict with or obstruct implementation of the applicable air quality plan.	Less than Significant.	**MM AQ-1: Prepare and Implement Dust Control Plan** Prior to commencing construction, the Applicant shall be required to submit a Dust Control Plan to the ICAPCD for approval. The Dust Control Plan will identify all sources of PM10 emissions and associated mitigation measures during the construction and operational phases (see Rule 801 F.2). The Applicant shall submit a "Construction Notification Form" to the ICAPCD 10 days prior to the commencement of any earthmoving activity. The Dust Control Plan submitted to the ICAPCD shall meet all applicable requirements for control of fugitive dust emissions, including the following measures designed to achieve the no greater than 20-percent opacity performance standard for dust control and address the following parameters: • All disturbed areas, including bulk material storage that is not being actively used, shall be effectively stabilized; and visible emissions shall be limited to no greater than 20-percent opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps or other suitable material, such as vegetative groundcover. Bulk material is defined as earth, rock, silt, sediment, and other organic and/or inorganic material consisting of or containing particulate matter with 5 percent or greater silt content. For modeling purposes, it was assumed that watering would occur twice daily. • All on-site unpaved roads segments or areas used for hauling materials shall be effectively stabilized. Visible emissions shall be limited to no greater than 20 percent opacity for dust	Less than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		emissions by restricting vehicle access, paving, application of chemical stabilizers, dust suppressants and/or watering. • The transport of bulk materials on public roads shall be completely covered, unless 6 inches of freeboard space from the top of the container is maintained with no spillage and loss of bulk material. In addition, the cargo compartment of all haul trucks shall be cleaned and/or washed at the delivery site after removal of bulk material, prior to using the trucks to haul material on public roadways. • All track-out or carry-out on paved public roads, which includes bulk materials that adhere to the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto the pavement, shall be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an urban area. • Movement of bulk material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers, or by sheltering or enclosing the operation and transfer line except where such material or activity is exempted from stabilization by the rules of ICAPCD. **MM AQ-2: NOx Emission Controls** The Applicant shall implement all applicable standard measures for construction combustion equipment for the reduction of excess NOx emissions as contained in the Imperial County CEQA Air Quality Handbook and associated regulations. These measures include:	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		• Use alternative-fueled or catalyst-equipped diesel construction equipment, including all off-road and portable diesel-powered equipment. • Minimize idling time, either by shutting equipment off when not in use or reducing the time of idling to five minutes at a maximum. • Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use. Replace fossil-fueled equipment with electrically driven equivalents (assuming powered by a portable generator set and are available, cost effective, and capable of performing the task in an effective, timely manner). • Curtail construction during periods of high ambient 1 pollutant concentrations; this may include ceasing construction activity during the peak hour of vehicular traffic on adjacent roadways. • Implement activity management (e.g., rescheduling activities to avoid overlap of construction phases, which would reduce short-term impacts).	
Impact 5.1-2: Cumulatively considerable net increase of 1 any criteria pollutant.	Potentially Significant.	**MM AQ-1 and MM AQ-2**	Less than Significant.
Impact 5.1-3: Other emissions, such as odors that adversely affect a substantial number of people.	Less than Significant.	None.	Less than Significant.
Impact 5.1-4: Exposure of sensitive receptors to substantial pollutant concentrations.	Less than Significant.	None.	Less than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
5.2 Biological Resources			
Impact 5.2-1: Substantial effect on candidate, sensitive, or special status species.	Potentially Significant.	**MM BIO-1a: Mitigation of Impacts to flat-tailed horned lizards, Palm Springs pocket mouse, and their habitat.** Prior to the initiation of any ground disturbances and the issuance of grading permits for Cells 4A or 4B, a Capture/Relocation Plan for flat-tailed horned lizard shall be prepared by a qualified biologist. The plan shall include preconstruction survey and monitoring methods, capture and relocation methods, and suitable relocation areas. The plan may include additional protection measures during construction including: • Creating areas of land or small paths/culverts between project facilities for wildlife movement, • Installing silt fencing around work areas to prevent migration of adjacent wildlife into impact areas, • Installing pitfall traps in spring/summer/fall to trap any individuals that remain on the site for removal from work areas), and/or • Biological monitoring during construction to inspect fencing and pitfall traps and relocate wildlife species out of harm's way, if required The plan shall be approved by CDFW and the County of Imperial (or an agency delegated to oversee this program). Prior to Construction, a Capture/Relocation Plan for Palm Springs pocket mouse shall be prepared by a qualified biologist. The plan shall include preconstruction survey and monitoring methods, capture methods, and suitable relocation areas. The plan may include additional protection measures during construction including:	Less than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		• Creating areas of land or small paths/culverts between project facilities for wildlife movement, • Installing silt fencing around work areas to prevent migration of adjacent wildlife into impact areas, • Implementing vegetation removal and initial ground disturbance activities between September and December if possible, avoiding the peak breeding season (March to May), and limiting activity as much as possible during the rest of the breeding season (January to February and June to August) to allow dispersing juveniles to potentially move out of the impact area, and/or biological monitoring during construction to inspect fencing, if required. • The plan shall be approved by CDFW and the County of Imperial (or an agency delegated by the department to oversee this program). An environmental training program shall be developed and presented to all crew members prior to the beginning of all project construction. (See MM BIO-5) A biological monitor shall be present prior to initiation of ground disturbing activities to demark limit of disturbance boundaries. Flagging and/or staking will be used to clearly define the work area boundaries and avoid impacts to adjacent native communities. The biological monitor will conduct preconstruction sweeps and inspect compliance with project measures. If a sensitive species is found, the species shall be relocated out of harm's way according to the capture/ relocation plan. Any mortalities shall be reported to the agencies and County of Imperial. A final monitoring report will be submitted to CDFW and	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		County of Imperial. The annual report shall include a summary of preconstruction surveys, measures were effective. A qualified biologist shall work with construction crews to determine access routes that will avoid native habitat and burrows as much as feasible. Furthermore, during construction activities, the biological monitor shall ensure that connected, native habitat with sandy soils are avoided and remain intact to the greatest extent possible. If vegetation removal cannot be avoided, clearing of habitat shall be avoided during the peak breeding season (March to May), and activity shall be limited as much as possible during the rest of the breeding season (January to February and June to 10 August). **MM BIO-1b Burrowing Owl Preconstruction Surveys** While the 2019 Burrowing Owl Survey concluded that this species is absent from the project area, given the phased approach for construction of Cells 4A and 4B, Burrowing Owl Preconstruction Surveys will be required. Pre-construction focused surveys for the burrowing owl shall be conducted, pursuant to the CDFW 2012 Staff Report on Burrowing Owl Mitigation (Staff Report), no less than 3 days prior to the start of initial ground disturbing activities for Cells 4A and Cell 4B, respectively, to ensure no portion of the construction footprint is being utilized by western burrowing owls. The survey shall be conducted by an experienced and qualified biologist, knowledgeable with the species. In conformance with federal and State regulations regarding the protection of raptors, surveys for burrowing owls shall be conducted in conformance with the California Staff Report's protocols, or updated guidelines as they become available.	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		If burrowing owls are detected on site, no ground-disturbing activities will be permitted within 656 feet of an occupied burrow during the breeding season (February 1 to August 31), unless otherwise authorized by CDFW. During the nonbreeding season (September 1 to January 31), ground-disturbing work can proceed near active burrows as long as the work occurs no closer than 165 feet from the burrow. Depending on the level of disturbance, a smaller buffer may be established in consultation with CDFW. If avoidance of active burrows is infeasible during the nonbreeding season, then, before breeding behavior is exhibited and after the burrow is confirmed empty by site surveillance and/or scoping, a qualified biologist shall implement a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 Staff Report. Passive relocation consists of excluding burrowing owls from occupied burrows by closing or collapsing the burrows and providing suitable artificial burrows nearby for the excluded burrowing owls. Where required buffering will not be feasible, passive relocation is an option in consultation with CDFW, but it is preferred to install appropriate artificial burrows (in accordance with the negotiated Plan) and then let the owls decide whether they would like to abandon the existing burrow. Only burrows that are in danger by construction shall be collapsed if at all possible. A Burrowing Owl Relocation Plan will be prepared and approved by CDFW prior to commencement of burrowing owl exclusion activities if this method of mitigation is required. The plan will detail the procedures of the passive relocation effort, the location of constructed	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		replacement burrows, design of replacement burrows, and post relocation monitoring requirements. **MM BIO-2: Mitigation of Impacts to Le Conte Thrasher, Nesting Birds and Breeding Birds** While the 2019 surveys concluded that Le Conte Trasher is absent from the project area, given the phased approach for construction of Cells 4A and 4B, Preconstruction Surveys will be required. Prior to onsite any site disturbance (i.e., mobilization, staging, grading or construction) the Applicant shall retain a County qualified biologist to conduct pre-construction surveys for nesting birds and Le Conte Thrasher in all areas within 500 feet of construction activities to comply with CDFW Code 3503 and 3503.5 and the Migratory Bird Treaty Act. Surveys for raptors shall be conducted for all areas from February 1 to August 15. The survey shall occur no more than 7 days prior to initiation of proposed Project activities, and any occupied passerine and/or raptor nests occurring within or adjacent to the proposed Project area shall be delineated. Additional follow-up surveys may be required by the resource agencies and the County of Imperial. If breeding birds with active nests are found prior to or during construction, a biological monitor shall establish a 300-foot buffer around the nest for ground-based construction activities (or within a buffer determined by the avian biologist). In all cases, the buffer zone shall be sufficient in size to prevent impacts to the nest and no activities will be allowed within the buffer(s) until the young have fledged from the nest or the nest fails.	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		Once nesting has ceased, the buffer may be removed. A nesting bird survey report shall be provided to the County of Imperial within 30 days of survey completion. If active Le Conte's Thrasher nests are located on the project site or within a 500-foot buffer, then a 500-foot no-work buffer will be established around the nest during the Le Conte's thrasher breeding season until it is no longer active. **MM BIO-3: Mitigation of Impacts to Creosote Bush Scrub, Creosote Bush – Honey Mesquite Scrub, Rigid Spineflower – Hairy Desert Sunflower Sparsely Vegetated Desert Pavement Alliance, and Riparian Habitat (Tamarisk – Honey Mesquite – Four Wing Saltbush Scrub)** Prior to construction, a qualified restoration specialist shall evaluate the habitats within the areas to be temporarily disturbed/impacted to determine if habitat restoration is possible. Habitat restoration may not be possible given prevailing winds and the potential inoculation of additional invasive species from adjacent areas. If the specialist determines restoration is possible, then a Habitat Restoration Plan (HRP) for the temporarily impacted area shall be prepared. The plan shall include sufficient detail to address all aspects of the restoration effort (further site evaluation, site preparation, planting, maintenance, and monitoring to determine success (i.e., plant survival, etc.) and additional maintenance needs. In general restoration of temporarily impacted areas involves recontouring the land, decompaction, replacing the topsoil (if collected), planting seed and/or container stock, maintaining (i.e., weeding, replacement). Locations within Section 27, adjacent to the Project site and under the	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		control of the Applicant, will be used for off-site restoration, if on-site restoration is not feasible. **MM BIO-4: Mitigation of Impacts to Jurisdictional Waters** • Permanent impacts to all jurisdictional resources shall be compensated through a combination of habitat creation (i.e., establishment), enhancement, preservation, and/or and restoration at a minimum of a 1:1 ratio or as required by the permitting agencies. Any creation, enhancement, preservation, and/or restoration effort shall be implemented pursuant to an HRP, which shall include success criteria and monitoring specifications, and shall be submitted to and reviewed/approved by the California Dept. of Fish and Game and the County of Imperial Planning and Development Services Department (permitting agencies). A habitat restoration specialist will be designated and approved by the permitting agencies and will determine the most appropriate method of restoration. • Temporarily impacted drainage features shall be recontoured to preconstruction conditions. Temporary impacts shall be restored sufficient to compensate for the impact to the satisfaction of the permitting agencies (depending on the location of the impact). If restoration of temporary impact areas is not possible to the satisfaction of the appropriate agency, the temporary impact shall be considered a permanent impact and compensated accordingly. • A biological monitor shall be present prior to initiation of ground disturbing activities to demark limit of disturbance boundaries. Flagging and/or staking will be used to clearly define the work area boundaries and avoid impacts to adjacent drainage features.	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		• Erosion protection and sediment control BMPs would be implemented in compliance with the General Construction General Permit and the Stormwater Pollution Prevention Plan (SWPPP). • Graded areas would be stabilized to promote infiltration and reduce run-off potential. • Any excess soil would be spread on site outside of jurisdictional drainages. **MM BIO-5: Prepare and Implement a Worker Environmental Awareness Program (WEAP).** The Applicant shall prepare and implement a project-specific Worker Environmental Awareness Program (WEAP) to educate on-site workers about the Proposed Project's sensitive environmental issues. The WEAP shall be presented by the lead biologist or a biological monitor to all personnel on-site during the construction phase(s). If the WEAP presentation is recorded on video, it may be presented by any competent project personnel. Throughout the duration of construction, the Applicant shall be responsible for ensuring that all on-site project personnel receive this training prior to beginning work. A construction worker may work in the field along with a WEAP-trained crew for up to 5 days prior to attending the WEAP training. The Applicant shall maintain a list of all personnel who have completed the WEAP training. This list shall be provided to the County ICPDSD personnel upon request. The WEAP shall consist of a training presentation, with supporting written materials provided to all participants. At least 60 days prior to the start of ground-disturbing activities, the Applicant shall submit the WEAP presentation and associated materials to the County	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		ICPDSD for review and approval in consultation with the USFWS and CDFW. The WEAP training shall include, at minimum: • Overview of the federal and state Endangered Species Acts, Migratory Bird Treaty Act, and the consequences of non-compliance with these acts. • Overview of the project mitigation and biological permit requirements, and the consequences of non-compliance with these requirements. • Sensitive biological resources on the project site and adjacent areas, including nesting birds, special-status plants and wildlife and sensitive habitats known or likely to occur on the project site, project requirements for protecting these resources, and the consequences of non-compliance. • Construction restrictions such as limited operating periods, Environmentally Sensitive Areas (ESAs), and buffers and associated restrictions, and other restrictions such as no grading areas, flagging or signage designations, and consequences of non-compliance. • Avoidance of invasive weed introductions onto the project site and surrounding areas, and description of the project's weed control plan and associated compliance requirements for workers on the site. • Function, responsibilities, and authority of biological and environmental monitors and how they interact with construction crews.	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		• Requirement to remain within authorized work areas and on approved roads, with examples of the flagging and signage used to designate these areas and roads, and the consequences of non-compliance. • Procedure for obtaining clearance from a biological monitor to enter a work site and begin work (including moving equipment), and the requirement to wait for that clearance. • Nest buffers and associated restrictions and the consequences of non-compliance. Procedure and time frame for halting work and removing equipment when a new buffer is established. Discussion of nest deterrents. • Explanation that wildlife must not be harmed or harassed. What to do and who to contact if dead, injured, or entrapped animals are encountered. • General safety protocols such as hazardous substance spill prevention, containment, and cleanup measures; fire prevention and protection measures; designated smoking areas (if any) and cigarette disposal; safety hazards that may be caused by plants and animals. • Project requirements that have resulted in repeated compliance issues on other recent transmission line projects, such as dust control, speed limits, track out (dirt or mud tracked from access roads or work sites onto paved public roads or other areas), personal protective equipment (PPE), work hours, working prior to clearance, and waste containment and disposal.	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		• Printed training materials, including photographs and brief descriptions of all special status plants and animals that may be encountered on the project, including behavior, ecology, sensitivity to human activities, legal protection, penalties for violations, reporting requirements, and protection measures • Contact information for construction management, and contractor environmental personnel, and who to contact with questions. • Training acknowledgment form to be signed by each worker indicating that they understand and will abide by the guidelines, and a hardhat sticker so WEAP attendance may be easily verified in the field. **WEAP Lite.** An abbreviated version of WEAP training ("WEAP lite") may be used for individuals who are exclusively delivery drivers or visitors to the project site, and will be provided by a qualified project biologist, biological monitor, or environmental field staff prior to those individuals entering or working on the project. Short-term visitors (total of 5 days or less per year) to the project site who will be riding with and in the company of WEAP-trained project personnel for the entire duration of their visit(s) are not required to attend WEAP or WEAP lite training. WEAP lite presentations shall be tailored to delivery/concrete truck drivers and visitors as well as the situation and emphasize project requirements that are relevant to those individuals and that situation.	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		WEAP Refreshers. Biological monitors or environmental field staff will periodically present brief WEAP refresher presentations at tailboards to help construction crews and other personnel maintain awareness of environmental sensitivities and requirements. A 5- to 10-minute informal talk will be presented at each of the project's main contractor/ subcontractor tailboards at least once a week. When a contractor or subcontractor resumes work after a long break, a biological monitor or environmental field staff will provide an extended WEAP refresher presentation (10-20 minutes) at each of the contractor/subcontractor tailboards on the first day back to work.	
Impact 5.2-2: Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.	Potentially Significant.	**MM BIO-1 through MM BIO-5.**	Less than Significant.
Impact 5.2-3: Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.	Potentially Significant.	**MM BIO-1 through MM BIO-5.**	Less than Significant.
Impact 5.2-4: Interfere substantially with movement of any native resident or migratory fish / wildlife species, wildlife corridors, or impede the use of native wildlife nursery sites.	No impact.	**None.**	No Impact.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
Impact 5.2-5: Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	Potentially Significant.	**MM BIO-1 through MM BIO-5.**	Less than Significant.
5.3 CULTURAL RESOURCES			
Impact 5.3-1: Cause a substantial adverse change in the significance of an historical resource pursuant to Section 15064.5.	Potentially Significant.	**MM CUL-1: Cultural Resources Construction Monitor** A cultural resources monitor shall be present during all initial excavation or other earth-moving activities associated with construction of Cell 4A and Cell 4B and ancillary improvements. The monitoring shall consist of the full-time presence of a Qualified Archaeologist who meets or exceeds the Secretary of the Interior Professional Qualifications Standards as an archaeologist and a TCA (traditionally and culturally affiliated) Native American Monitor. The Applicant shall immediately notify the Imperial County Planning and Development Services Department if any undocumented and/or buried prehistoric or historic resource is uncovered. All construction must stop in the vicinity of the find until the find can be evaluated for its eligibility for listing in the CRHR. The cultural resources monitor shall have the authority to halt construction activity in the immediate vicinity of the encountered historic resource for a sufficient interval of time to allow avoidance or recovery of the encountered historic resources and shall also have the authority to redirect construction equipment in the event that any cultural resource is inadvertently encountered. All cultural resources are assumed to be eligible for the CRHR until determined otherwise by the monitor. Work will not resume in the area of the discovery until authorized by the monitor.	No Impact.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		MM CUL-2: Delineate Environmentally Sensitive Areas Prior to the construction permit issuance, the Applicant shall delineate on a confidential copy of project plans provided to the County, Environmentally Sensitive Areas (ESAs). ESAs will encompass the site boundary of two sites deemed significant under CEQA (CA-IMP-6141 and CA-IMP-6145) plus a 200-foot buffer around the site(s). ESAs shall be staked and/or flagged in a conspicuous manner. To ensure the integrity of these areas from unauthorized disturbance or collection, the delineated areas shall not be labeled with regard to the specific type of cultural resource identified as sensitive. Spot checking by a qualified archaeologist shall be completed throughout construction to ensure ESAs are not entered. If it is necessary for the Project to encroach on any ESA, full time monitoring by a qualified archaeologist, who is approved by the County, will be required to ensure there are no impacts to the archaeological site. If avoidance is not an option, then a data recovery program shall be undertaken.	
		MM CUL-3: Data Recovery Program The Project was designed to avoid and preserve archaeological resources in place where possible. Where avoidance and preservation is not possible, data recovery shall occur. Prior to excavation, a data recovery plan must be prepared that makes provision for adequately recovering the scientifically consequential information from and about the historical resource. Data recovery includes the documentation, recordation, and removal of the archeological deposit from a project site in a manner consistent with professional (and regulatory) standards. It also includes the subsequent inventorying,	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		cataloguing, analysis, identification, dating, interpretation of the artifacts and "ecofacts" & the production of a report of findings.	
Impact 5.3-2: Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.	Potentially Significant.	**MM CUL-1, CUL-2, and CUL-3**	Less Than Significant.
Impact 5.3-3: Disturb any human remains, including those interred outside of formal cemeteries.	Potentially Significant.	**MM CUL-4: Unanticipated Discovery – Human Remains** In the event that evidence of human remains is discovered during construction, construction activities within 200 feet of the discovery will be halted or diverted and the Imperial County Coroner will be notified (Section 7050.5 of the Health and Safety Code). If the Coroner determines that the remains are Native American, the Coroner will notify the NAHC, which will designate a most likely descendant (MLD) for the project (Section 5097.98 of the PRC). The designated MLD then has 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains (AB 2641). If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (Section 5097.94 of the PRC). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (Section 5097.98 of the PRC). This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a document with the county in which the property is located (AB 2641).	Less Than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
5.4 Geology and Soils			
Impact 5.4-1: Substantial adverse effects from the rupture of a known earthquake fault.	Less Than Significant.	None.	Less Than Significant.
Impact 5.4-2: Substantial adverse effects from strong seismic ground shaking.	Potentially Significant.	**MM GEO-1: Reduce Effects of Groundshaking** Prior to issuance of construction permits, the design-level geotechnical investigations shall be conducted and shall include site-specific seismic analyses to evaluate ground accelerations for design of project components. Based on these findings, project structure designs shall be modified/strengthened to: • Comply with all California Code of Regulations, Title 27, and the Regional Water Quality Control Board (RWQCB) and County of Imperial standards regarding the nature, location, and construction of proposed facilities, including, but not limited to Section 20370, which requires all Class II waste disposal facilities to be designed to withstand the maximum credible earthquake (MCE) without damage to the foundation or to the structures which control leachate, surface drainage, or erosion, or gas. • Incorporate peak ground acceleration loading values of 0.905 g unless a site-specific seismic hazard analysis provides a different value of PGA or modified recommendations are provided by the geotechnical consultant. • Incorporate all measures deemed appropriate by the geotechnical engineer. Prior to the issuance of building permits, additional analysis of the project site shall be conducted to evaluate potential impacts associated with repeatable high ground acceleration, localized liquefaction potential, expansive and	Less Than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		reactive soils, and wind generated erosion. Mitigation measures derived from these analyses may include the following types of requirements: – Overexcavation of unsuitable base materials and replacement with approved and properly compacted structural fill – Use of moisture, chemical, engineering, and/or drainage methods to control expansive behavior of underlying clay soil, if appropriate – Use of non-steel or coated (usually polyethylene encasement) conduits, sulfate resistant cement, or other protective materials in areas of corrosive soils – Appropriate design of fill slopes associated with berms, storage/disposal facilities, building pads, etc., to minimize the potential for seismically-induced landsliding. This may include measures such as establishing maximum slope grades and the use of stabilizing materials or buttressing – Proper design of surface and subsurface drainage devices. Initiation of settlement monitoring if appropriate – Appropriate design, location, and construction of erosion control methods and devices – Scarification and recompaction of the native soils in all fill areas to reduce erosion potential – Identification of appropriate wind erosion mitigation measures (if necessary) such as the use of chemical or physical stabilizers, appropriate operating schedules, etc.	
Impact 5.4-3: Substantial adverse effects from seismic-related ground failure, including liquefaction.	Less Than Significant.	No significant effects related to liquefaction and dynamic settlement are anticipated due to the depth to groundwater and the seismicity of	Less Than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		the Salton Trough. However, in the event that localized loose granular cohesionless materials (e.g., in alluvial washes) are encountered during final design, implementation of MM-GEO-1 will reduce impacts to below a level of significance.	
Impact 5.4-4 Substantial adverse effects from landslides.	Less Than Significant.	None.	Less Than Significant.
Impact 5.4-5: Substantial soil erosion or the loss of topsoil.	Potentially Significant.	**MM-GEO-1** **MM AIR-1**	Less Than Significant.
Impact 5.4-6: Landslides, lateral spreading, subsidence, liquefaction or collapse.	Less Than Significant.	**MM-GEO-1**	Less Than Significant.
Impact 5.4-7: Substantial risks to life or property due to expansive soil.	Less Than Significant.	None.	Less Than Significant.
Impact 5.4-8: Direct or indirect destruction of a unique paleontological resource, site or unique geologic feature.	Potentially Significant.	**MM PAL-1: Retain Qualified Project Paleontologist** Prior to the start of ground disturbance for the construction of 4A and prior to the start of ground disturbance for Cell 4B, a qualified paleontologist shall be retained by the Applicant to serve as the Project Paleontologist. The qualifications of the Project Paleontologist shall be submitted to the ICPDSD for approval. This individual shall have the following qualifications: • Professional instruction in a field of paleontology relevant to the work proposed (vertebrate, invertebrate, trace, paleobotany, etc.), obtained through: • Formal education resulting in a graduate degree from an accredited institution in paleontology, or in geology, biology, botany, zoology or anthropology if the major emphasis is in paleontology; or	Less Than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		• Equivalent paleontological training and experience including at least 24 months under the guidance of a professional paleontologist who meets qualification; and • Demonstrated experience in collecting, analyzing, and reporting paleontological data; • Demonstrated experience in planning, equipping, staffing, organizing, and supervising crews; • Demonstrated experience in carrying paleontological projects to completion as evidenced by completion and/or publication of theses, research reports, scientific papers and similar documents. The Project Paleontologist will serve as the Principal Investigator and is responsible for the performance of all other personnel. This person is also the contact person for the Applicant and the ICPDSD. Additional Paleontological Staff – The Project Paleontologist may obtain the services of Paleontological Field Agents, Field Monitors, and Field Assistants, if needed, to assist in mitigation, monitoring, and curation activities. **MM PAL-2: Provide Paleontological Environmental Awareness Training** The Applicant will provide worker's environmental awareness training on paleontological resources protection as part of its Worker Environmental Awareness Program (WEAP) required under Mitigation Measure BIO-5 - Prepare and implement a Worker Environmental Awareness Program. This training may be administered by the Project Paleontologist as a stand-alone training or included as part of the overall worker's environmental awareness training. At a minimum, the training shall include the following:	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		• Types of fossils that could occur at the project site; • Types of lithologies in which the fossils could be preserved; • Procedures that shall be followed in the event of a fossil discovery; and • Penalties for disturbing paleontological resources. **MM PAL-3: Prepare and Implement a Paleontological Resource Mitigation and Monitoring Plan** Prior to the start of construction of Cell 4A, the Applicant shall submit a Paleontological Mitigation and Monitoring Plan (PRMMP) for the project to the ICPDSD for review and approval. The PRMMP shall be prepared and implemented during the construction of Cell 4A and Cell 4B under the direction of the Project Paleontologist and shall address and incorporate mitigation measures PAL-1, PAL¬3 and PAL-4. The PRMMP shall be based on Society of Vertebrate Paleontology (SVP) assessment and mitigation guidelines and meet all regulatory requirements. A monitoring plan indicates the avoidance or treatments recommended for the area of the proposed disturbance and must at a minimum address the following: • Identification and mapping of impact areas of high paleontological sensitivity that will be monitored during construction; • A coordination strategy to ensure that a qualified paleontologist will conduct monitoring at the appropriate locations at the appropriate intensity; • The significance criteria to be used to determine which resources will be avoided or recovered for their data potential;	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		• Procedures for the discovery, recovery, preparation, and analysis of paleontological resources encountered during construction, in accordance with standards for recovery established by the SVP; • Provisions for verification that the Applicant has an agreement with a recognized museum repository for the disposition of any recovered fossils • Specifications that all paleontological work undertaken shall be carried out by qualified paleontologists; • Description of monitoring reports that will be prepared which shall include daily logs, monthly reports, and a final monitoring report with an itemized list of specimens found to be submitted to the ICPDSD, the Applicant and the designated repository within 90 days of the completion of monitoring; • The implementation sequence and the estimated time frames needed to accomplish all project-related tasks during the ground-disturbance phases; and • Person(s) expected to perform each of the tasks, and their responsibilities, shall be identified. • All impact-avoidance measures (such as flagging or fencing) to prohibit or otherwise restrict access to sensitive resource areas that are to be avoided (if any) during ground disturbance/ construction shall be described. Any areas where these measures are to be implemented shall be identified. The description shall address how these measures would be implemented prior to the start of ground disturbance and how long they would be needed to protect the resources from project-related impacts.	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		MM PAL-4: Paleontological Monitoring The Applicant shall continuously comply with the following during all ground disturbing activities during the project: • Areas within the Project work areas with high paleontological sensitivity shall be plotted on the main project map and all ground disturbing activity in these areas shall be monitored on a full-time basis by an ICPDSD approved Paleontological Field Agent who will work under the supervision of the paleontologist and principal investigator. • The level of effort and intensity for monitoring shall be modified as needed by the Project Paleontologist, based on the sediment types, depths, and distributions observed. • Project activities shall be diverted when data recovery of significant fossils is warranted, as determined by the Project Paleontologist. Monitoring shall be conducted as follows: • Monitoring of ground disturbance shall consist of the surface collection of visible vertebrate and significant invertebrate fossils within the project site. Upon discovery of paleontological resources by paleontologists or construction personnel, work in the immediate area of the find shall be halted and diverted and the Project Paleontologist shall be notified. Once the find has been inspected and a preliminary assessment has been made, the Project Paleontologist will notify the Applicant. The Applicant will notify the ICPDSD of the discovery within 24 hours. • Recovered specimens shall be prepared to a point of identification and curated into a repository with retrievable storage.	

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		• All significant fossil specimens recovered from the Project site shall be treated (prepared, identified, curated, and catalogued) in accordance with the designated repository requirements. • Samples shall be submitted to a laboratory, acceptable to the designated repository, for identification, dating, and microfossil and pollen analysis. • Upon completion of the monitoring efforts, • Within 90 days of the completion of monitoring effort(s), monitoring reports will be prepared and submitted to the ICPDSD, the Applicant and the designated repository.	
5.5 Greenhouse Gas Emissions			
Impact 5.5-1: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.	Less Than Significant.	None.	Less Than Significant.
Impact 5.5-2: Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases.	Less Than Significant.	None.	Less Than Significant.
5.6 Hazards and hazardous materials			
Impact 5.5-1: Create a significant hazard through the routine transport, use, or disposal of hazardous materials.	Less Than Significant.	None.	Less Than Significant.
Impact 5.5-2: Create a significant hazard through release of hazardous materials into the environment.	Less Than Significant.	None.	Less Than Significant.
Impact 5.5-3: Located on a site which is included on a list of hazardous materials sites.	No Impact.	None.	No Impact.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
Impact 5.5-4: Expose people or structures to a significant risk of loss, injury or death involving wildland fires?	Less Than Significant.	None.	Less Than Significant.
5.7 Hydrology/Water Quality			
Impact 5.7-1: Violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality.	Potentially Significant.	**MM HWQ-1: Water Quality Monitoring for Iron** The Applicant shall monitor for iron in qualifying storm events at Cell 4 after initiation of the Project, as required under the Industrial General Permit. If iron concentrations exceed the annual numeric action level for two successive years, DVC shall implement an investigation program that consists of the following: • Analyze the stormwater samples for both total and dissolved iron. If the stormwater analysis indicates that the iron is primarily in suspended (i.e. total iron result) form, then additional BMPs shall be installed to minimize the amount of fine sediment present in the qualifying storm event samples, and the I-SWPPP shall be revised accordingly. If the stormwater analysis indicates that the iron is primarily dissolved, then DVC shall conduct the following additional testing: • Analyze soils samples for soluble iron using a deionized water leach (e.g. DI- WET). Samples shall be collected from the stormwater swale within the facility boundary, from the liner/cap material at the perimeter of Cell 4, from the stormwater diversion berm installed along the south and west sides of Cell 4, and from the waste material.	Less Than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
		Based on the results of the additional testing, DVC shall propose measures to minimize stormwater contact with the specific soil or waste medium that is leaching iron. These measures may include use of a different soil material, where applicable, or covering of the source soils with soils that do not leach iron. These measures shall be submitted to the County and to the Regional Water Quality Control Board for review and approval before implementation. To assist the County in verifying compliance with Mitigation Measure H-1, the qualifying storm event sampling results shall be submitted for review to the State Water Resources Control Board's Storm Water Multiple Application and Report Tracking System (SMARTS) and to the County Department of Environmental Health, and the Planning and Development Services Department. The actions required under this mitigation measure would be in addition to, but could supplement, any requirements for Exceedance Response Actions associated with the Industrial General Stormwater Permit (IGP).	
Impact 5.7-2: Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.	Less Than Significant.	None.	Less Than Significant.
Impact 5.7-3: Substantial alteration of the existing drainage pattern which would result in:	Less Than Significant.	None.	Less Than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
a) substantial erosion or siltation on- or off-site; b) flooding on- or off-site; c) substantial increase of surface runoff; d) exceedance of stormwater drainage system capacity; e) impede or redirect flood flows.			
Impact 5.7-4: Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	Less Than Significant.	None.	Less Than Significant.
5.8 Land Use and Planning			
Impact 5.8-1: Physically divide an established community.	No Impact.	None.	No Impact.
Impact 5.8-2: Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.	Less Than Significant.	None.	Less Than Significant.
5.9 Noise			
Impact 5.9-1: Result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project.	Less Than Significant.	None.	Less Than Significant.
Impact 5.9-2: Result in generation of excessive ground borne vibration or ground borne noise levels.	Less Than Significant.	None.	Less Than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
5.10 TRANSPORTATION/TRAFFIC			
Impact 5.10-1: Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities.	Less Than Significant.	None.	Less Than Significant.
Impact 5.10-2: Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b).	Less Than Significant.	None.	Less Than Significant.
Impact 5.10-3: Substantially increase hazards due to a geometric design feature or incompatible uses.	Less Than Significant.	None.	Less Than Significant.
Impact 5.10-4: Result in inadequate emergency access.	No Impact.	None.	No Impact.
5.11 Tribal Cultural Resources			
Impact 5.11-1: Cause a substantial adverse change in the significance of a tribal cultural resource.	Potentially Significant.	**MM CUL-1 through 4.**	Less Than Significant.
Impact 5.11-2: Cause a substantial adverse change in the significance of a tribal cultural resource.	Potentially Significant.	**MM CUL-1 through 4.**	Less Than Significant.
5.12 Utilities and Service Systems			
Impact 5.12-1: Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	Potentially Significant.	**MM AQ-1 and MM AQ-2** **MM BIO-1 through 5** **MM CUL-1 through 4** **MM PAL-1 through 4** **MM HWQ-1**	Less Than Significant.

TABLE 1-1: SUMMARY OF ENVIRONMENTAL IMPACTS, MITIGATION MEASURES AND LEVELS OF SIGNIFICANCE AFTER MITIGATION

Environmental Impact	Level of Significance Before Mitigation	Mitigation Measures	Level of Significance After Mitigation
Impact 5.12-2: Have sufficient water supplies to serve the project.	Less Than Significant.	None.	Less Than Significant.
Impact 5.12-3: Result in a determination by the wastewater treatment provider, which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	No Impact.	None.	No Impact.
Impact 5.12-4: Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.	Less Than Significant.	None.	Less Than Significant.
Impact 5.12-5: Comply with federal, state, and local management and reduction statutes and regulations related to solid waste.	No Impact.	None.	No Impact.

Attachment F: Resolution for General Plan Amendment GPA #18-0004

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, RECOMMENDING APPROVAL TO THE IMPERIAL COUNTY BOARD OF SUPERVISORS ON THE GENERAL PLAN AMENDMENT FOR THE DESERT VALLEY COMPANY MONOFILL (DVCM) EXPANSION (CELL 4) PROJECT TO CHANGE THE GENERAL PLAN DESIGNATION OF RECREATION/ OPEN SPACE TO SPECIAL PURPOSE FACILITY (GENERAL PLAN CHANGE # 18-0004)

WHEREAS, the applicant CalEnergy Operating Corporation filed a request for a General Plan Amendment GPA #18-0004 for the proposed Desert Valley Company Monofill (DVCM) Expansion (Cell 4) Project to change the land use designation from Recreation/Open Space to Special Purpose Facility,

WHEREAS, the Planning Commission of the County of Imperial has been delegated with the responsibility of making recommendations to the Imperial County Board of Supervisors regarding the Project for approval and,

WHEREAS, the General Plan Amendment (GPA #18-0004) has been provided in a timely manner to public agencies; and

WHEREAS, timely public notice of the Planning Commission's hearing on the Project application has been given, and the Planning Commission has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at that public hearing held with respect to this item on December 16, 2021, and

WHEREAS, the General Plan Amendment includes analysis for the inclusion and revision to the Land Use Designation change from Recreation/Open Space to Special Purpose Facility, and

NOW THEREFORE, the Planning Commission of the County of Imperial **DOES HEREBY RESOLVE** as follows:

SECTION 1. The Planning Commission independently has reviewed and considered the proposed General Plan Amendment GPA #18-0004 prior to making a decision to recommend that the Board of Supervisors to approve this General Plan Amendment (GPA #18-0004). The Planning Commission finds and determines that the Final Environmental Impact Report and Mitigation Monitoring and Reporting Program are adequate and prepared in accordance with the requirements of the California Environmental Quality Act (CEQA), which analyzes environmental effects, based upon the following findings and determinations.

SECTION 2. That in accordance with, CEQA, State Planning and Zoning law and the County of Imperial Land Use Ordinance, the following findings for the

recommendation for approval and certification of the General Plan Amendment (GPA) #18-0004 have been made as follows:

1. That the Final Environmental Impact Report (FEIR) **SCH# 2019120605**, CEQA Findings for DVCM Expansion (Cell 4) ("Project") have been prepared in accordance with the requirements of the California Environmental Quality Act, the State CEQA Guidelines, and the County's Rules to Implement CEQA as amended, and such findings are incorporated by reference herein
2. That the County independently has reviewed, analyzed, and considered the Final Project EIR, the environmental impacts therein identified for this Project, the Candidate CEQA Findings, and the Mitigation Monitoring and Reporting Program, and the entire Record of Proceedings prior to recommending approval of this project.
3. The General Plan Amendment (map and text revision) for the DVCM Expansion (Cell 4) Project is consistent with the Imperial County General Plan's Land Use as the project is not located in a sensitive areas.
4. The project area is mostly flat outside of earthquake fault zones and is physically suitable for the proposed project.
5. The General Plan Amendment is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. Surveys have been accomplished for biological and fish and impacts are less than significant with required mitigation.
6. The development and improvements are not likely to cause serious health problems.

NOW, THEREFORE, based on the above findings, the Planning Commission of the County of Imperial **DOES HEREBY RECOMMEND** that the Board of Supervisors approve the proposed General Plan Amendment GPA #18-0004, for the Desert Valley Company Monofill (DVCM) Expansion (Cell 4) ("Project").

_____
Rudy Schaffner, Chairperson
Imperial County Planning Commission

I hereby certify that the preceding resolution was taken by the Planning Commission at a meeting conducted on December 16, 2021 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

_____

Jim Minnick, Director of Planning & Development Services
Secretary to the Planning Commission

S:\AllUsers\APN\019\100\004\GPA18-0004; ZC18-0005; CUP18-0025\PC\GPA18-0004 Resolution.docx

Attachment G: Resolution for Zone Change ZC #18-0005

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, FOR THE RECOMMENDATION TO THE BOARD OF SUPERVISORS FOR AN APPROVAL OF A ZONE CHANGE TO CHANGE THE ZONING CLASSIFICATION FROM "S-2" (OPEN SPACE/PRESERVATION) TO "M-2" (MEDIUM INDUSTRIAL) AND THE ADOPTION OF THE ZONE CHANGE TO THE CODIFIED ORDIANCE.

WHEREAS, Project Applicant CalEnergy Operations Corporation has filed an application to re-zone parcel 019-100-004-000 from "S-2" Open Space/Preservation to "M-2" Medium Industrial as part of the Desert Valley Company Monofill (DVCM) Facility Expansion (Cell 4) Project. The project site is surrounded by vacant desert land except for the existing DVCM facility to the northeast.

WHEREAS, the Planning Commission of the County of Imperial has been delegated with the responsibility of making a recommendation to the Board of Supervisors on a decision for changes to Zoning Map No.70 Open Space area; and

WHEREAS, public notice of said application has been given, and the Planning Commission has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at a public hearing held with respect to this item on December 16, 2021;

NOW THEREFORE, the Planning Commission of the County of Imperial DOES HEREBY RESOLVE as follows:

SECTION 1. The Planning Commission has considered the proposed Zone Change #18-0005, prior to making a recommendation to the Board of Supervisors on a decision for the proposed amendment to the Zoning Map. Planning Commission finds and determines that the Environmental Impact Report is adequate and prepared in accordance with the requirements of the California Environmental Quality Act (CEQA), which analyzes environmental effects, based upon the following findings and determinations.

SECTION 2. That in accordance with State Planning and Zoning law and the County of Imperial General Plan and Zoning Ordinances, the following findings for the approval of Zone Change #18-0005 have been made as follows:

1. The proposed Zone Change has been analyzed relative to its potential to be detrimental to the health, safety, comfort and welfare of the persons residing or working within the neighborhood of the proposed Zone Change. Staff concluded that the project does not propose land uses, densities, or development patterns that will jeopardize the health and safety of the persons residing or working within the neighborhood of the property. Health, safety, and welfare will not be degraded as a result of this project.

2. The Zone Change is consistent with the General Plan's underlying land use designation. The Zone Change will allow for the expansion of the existing monofill facility by approximately 80 acres and would provide an additional 2.6 million cubic yards of disposal capacity.

3. The proposed Zone Change subject to this recommendation is consistent with the uses allowed by Imperial County's Land Use Ordinance 90516.02, provided that the applicant obtains a conditional use permit. Ordinance No. 90516.02 allows Solid Waste Facilities in the M-2 subject to a Conditional Use Permit.

4. The site physically is suitable of this type of development and zoning. The project site consists of generally low-lying level topography.

5. The change of zone will not conflict with any easements required by the public at large for access through or use of the property with the proposed zone change.

6. The change of zone is also consistent with the General Plan Land Use Element goals and objectives as shown on Table 5.8-1 of the FEIR (SCH #2019120605).

NOW, THEREFORE, based on the above findings, the Planning Commission of the County of Imperial DOES HEREBY recommend for the Board of Supervisors to approve the proposed Zone Change #18-0005 to rezone from the current zoning of S-2 (Open Space/Preservation) to M-2 (Medium Industrial) and the proposed change to the Imperial County Codified Zoning Ordinance.

_____
Rudy Schaffner, Chairperson
Imperial County Planning Commission

I hereby certify that the preceding resolution was taken by the Planning Commission at a meeting conducted on **December 16, 2021** by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Jim Minnick, Director of Planning & Development Services
Secretary to the Planning Commission

S:\AllUsers\APN\019\100\004\GPA18-0004; ZC18-0005; CUP18-0025\PC\GPA18-0004 ZC PC Resolution.doc

Ordinance No._____

AN ORDINANCE AMENDING THE CODIFIED ORDINANCES OF THE COUNTY OF IMPERIAL RELATING TO ZONES

The Board of Supervisors of the County of Imperial, State of California, ordain as follows:

SECTION 1: Section **92570.08**, is added to Chapter 70 of Division 25 of Title 9, and Division of the Codified Ordinances of the County of Imperial, State of California, to read as follows:

Section **92570.08** Amendment to Zoning Map No. 70 "Open Space Area" Zone Change #18-0005 Desert Valley Company Monofill (DVCM) Facility Expansion Project (Cell 4). The map entitled "Open Space Area" Zoning Map No. 70 (Section 92570.08 of the Codified Ordinances) is hereby amended in the particular only.

LEGAL DESCRIPTION:
The zone classification of a certain parcel of real property situated in the County of Imperial, State of California, and more particularly described as:

SECTION 33 TOWNSHIP 12 SOUTH, RANGE 11 EAST, 019-100-004-000.

"S-2" (Open Space/Preservation) to rezone into "M-2" (Medium Industrial).

SECTION 3: This Ordinance shall take effect thirty (30) days after the date of its adoption and prior to the expiration of fifteen (15) days from the passage thereof, shall be published at least once in a newspaper of general circulation printed and published in the County of Imperial, State of California, together with the names of the Board of Supervisors voting for and against the same.

SECTION 4: That in accordance with State Planning and Zoning law and the County of Imperial General Plan and zoning ordinances, the following findings for the approval of Zone Change #18-0005 have been made as follows:

1. The proposed Zone Change has been analyzed relative to its potential to be detrimental to the health, safety, comfort and welfare of the persons residing or working within the neighborhood of the proposed Zone Change. Staff concluded that the project does not propose land uses,

densities, or development patterns that will jeopardize the health and safety of the persons residing or working within the neighborhood of the property. Health, safety, and welfare will not be degraded as a result of this project.

2. The proposed Zone Change from S-2 (Open Space/Preservation) to M-2 (Medium Industrial) subject to this recommendation is consistent with the uses allowed by Imperial County's Land Use Ordinances 90516.02 for properties in the aforementioned zones, provided that the applicant obtains a conditional use permit.

3. The site physically is suitable of this type of development and zoning. The project site consists of generally flat terrain with very gentle topography.

4. The change of zone is also consistent with the General Plan Land Use Element goals and objectives, including objective 8.5 which states that "...at a minimum, provide adequate sites for solid/liquid and hazardous waste facilities to meet the current and projected demands of the County population and consistent with the County Solid Waste and Hazardous Waste Management Plans..." Additional goals and objectives are shown on Table 5.8-1 of the FEIR.

PASSED, ADOPTED AND APPROVED by the Board of Supervisors of the County of Imperial this December 16, 2021.

ATTEST:

Clerk of the Board of Supervisors

Ryan E. Kelley
Chairman of the Board
Board of Supervisors

S:\AllUsers\APN\019\100\004\GPA18-0004; ZC18-0005; CUP18-0025\PC\GPA18-0004 ZC Ordinance.doc

Attachment H: Resolution for Conditional Use Permit (CUP) #18-0025

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, RECOMMENDING APPROVAL TO THE BOARD FOR "CONDITIONAL USE PERMIT #18-0025" FOR DESERT VALLEY COMPANY MONOFILL (DVCM) EXPANSION (CELL 4) PROJECT

WHEREAS, CalEnergy Operating Corporation has submitted an application for Conditional Use Permit (CUP) #18-0025 to amend CUP #05-0020 for the expansion (Cell 4) of the existing Class II non-hazardous solid waste landfill for geothermal, non-hazardous waste streams, known as the Desert Valley Company Monofill (DVCM) Facility;

WHEREAS, a Final Environmental Impact Report (FEIR) (SCH #2019120605) and CEQA Findings have been prepared in accordance with the requirements of the California Environmental Quality Act, the State Guidelines, and the County's "Rules and Regulations to Implement CEQA," as Amended;

WHEREAS, the Planning Commission of the County of Imperial has been delegated with the responsibility of approvals, certifications and making recommendations to the Imperial County Board of Supervisors for approvals of conditional use permits;

WHEREAS, public notice of said application has been given, and the Planning Commission has heard, received and considered all oral and written protests, objections and evidence presented by interested parties at a public hearing held with respect to this item on December 16, 2021; and

WHEREAS, the Draft EIR was received by the State Clearinghouse on July 26, 2021 and circulated for a period of 50 days (SCH# 2019120605).

NOW, THEREFORE, the Planning Commission of the County of Imperial **DOES HEREBY RESOLVE** as follows:

SECTION 1. The Planning Commission has considered the proposed Conditional Use Permit #18-0025 prior to recommending approval and the County's consideration of the Project has been noticed in compliance with law.

SECTION 2. That the Project complies with the requirements of the Imperial County Code and is in accordance with State Planning and Zoning law therefore, the following findings are made pursuant to Imperial County Code § 90203.09 as follows:

A. The proposed use is consistent with goals and policies of the adopted County General Plan. (Imperial County Code § 90203.09.A)

The current General Plan land use designation of the project site is "Recreation/Open Space" and the applicant has requested to change it to "Special Purpose Facility" to match the land use designation of the existing monofill facility located on the same parcel (the remainder of Section 33) to be able to expand the facility. The intent of the General Plan Amendment is to make the whole parcel consistent with the General Plan land use designation and zoning. The existing facility is on land that has 2 land use designations and zoning types; therefore, the request to change the land use designation and zoning would make the project consistent with the General Plan.

Additionally, an analysis of the project's consistency with the General Plan goals and objectives relevant to the project can be found in Table 5.8-1 on the FEIR (SCH #2019120605).

B. The proposed use is consistent with the purpose of the zone or sub-zone within which the use will be used. (Imperial County Code § 90203.09.B)

The intent of the M-2 (Medium Industrial) zone is to designate areas for processing facilities, among other uses, whereas the existing S-2 (Open Space/Preservation) zone is meant to preserve biological, cultural and open space areas. The project site is located within the same parcel as the existing monofill facility so the applicant's intent to rezone to match the existing monofill facility would make the whole parcel consistent with the Imperial County General Plan and Land use Ordinance.

C. The proposed use is listed as a use within the zone or sub-zone or is found to be similar to a listed conditional use according to the procedures of Section 90203.00. (Imperial County Code § 90203.09.C)

The applicant also submitted a Zone Change application as part of the Desert Valley Company Monofill (DVCM) Facility Expansion (Cell 4) Project to change the current zone of "S-2 Open Space/Preservation" to "M-2 Medium Industrial" to match the existing monofill facility which is in the same parcel (Section 33). The

existing DVCM Facility is approved and operating under CUP #05-0020. The proposed use and existing use (monofill facility) can be found on the list of permitted uses with a conditional use permit in the M-2 zone (Imperial County Code § 90516.02). Therefore, the proposed use is consistent with the purposed change of zone to M-2 Medium Industrial.

D. The proposed use meets the minimum requirements of this Title applicable to the use and complies with all applicable laws, ordinances and regulation of the County of Imperial and the State of California. (Imperial County Code § 90203.09.D)

The Project complies with the minimum requirements of this Title by, among other things, obtaining a CUP, complying with the California Environmental Quality Act, and participating in the public review and hearing process. Development standards have been established for the Project pursuant to these processes, and will be enforced via imposition and enforcement of the Mitigation Monitoring and Reporting Program recommended for approval by separate Resolution, as well as the conditions of approval imposed on this CUP. The Conditions of Approval will further insure that the project complies with all applicable regulations of the County of Imperial and the State of California. Therefore, the proposed project meets the minimum requirements of the Land Use Ordinance, Section 90203.00.

E. The proposed use will not be detrimental to the health, safety, and welfare of the public or to the property and residents in the vicinity. (Imperial County Code § 90203.09.E)

The Environmental Impact Report prepared for the Project analyzed the Project's potential effects on the health, safety, and welfare of the public and property and found that, with mitigation, the Project has less than significant effects in all resources areas. Finally, the Project applicant has agreed to conditions of approval that support and promote the protection of the health, safety, and welfare of the County's citizens and property, and ensures that the County will not be negatively impacted environmentally or fiscally.

In addition, the project site is not near a residential community and is mostly surrounded by undeveloped open desert and by the existing monofill facility.

F. The proposed use does not violate any other law or ordinance. (Imperial County Code § 90203.09.F)

The proposed project will be subject to the Conditional Use Permit and current Federal, State and Local regulations. State Planning and Zoning Law (Cal. Govt. Code §§ 65000-66035) establishes minimum statewide standards for the regulation of local land use through planning and zoning. The County regulates local land use via Title 9 of the Imperial County Code. As found above, the proposed project is conditioned to be consistent with Imperial County, Title 9, Land Use Ordinance and CEQA mitigation measures and therefore complies with both State and local laws and ordinance. Pursuant to CEQA, the County has prepared an EIR for the Project, which EIR analyzes the Project's compliance and consistency with other federal, state, and local laws and ordinances regulating the environment. Substantial evidence supports the conclusions in the EIR that the Project complies with said environmental laws. The County is aware of no other laws or ordinances that might be implicated by the Project, and thus the finds that the proposed use does not violate any other law or ordinance.

G. The proposed use is not granting a special privilege. (Imperial County Code § 90203.09.G)

The proposed use is considered a "Solid Waste Facility", which is a permitted use subject to approval of a Conditional Use Permit under Land Use Ordinance, Section 92102.00 *et. seq*. No special privileges are being or will be granted.

SECTION 3. Approval of the Project should be conditioned upon the terms and conditions set forth in the Agreement for Conditional Use Permit No. 18-0025 attached hereto and incorporated herein by this reference.

NOW, THEREFORE, based on the above findings, the Imperial County Planning Commission **DOES HEREBY RECOMMEND APPROVAL** of Conditional Use Permit #18-0025 to the Board of Supervisors, subject to the attached Conditions of Approval.

Rudy Schaffner, Chairperson
Imperial County Planning Commission

I hereby certify that the preceding resolution was taken by the Planning Commission at a meeting conducted on **December 16, 2021** by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

Jim Minnick, Director of Planning & Development Services
Secretary to the Planning Commission

S:\AllUsers\APN\019\100\004\GPA18-0004; ZC18-0005; CUP18-0025\PC\GPA18-0004 CUP18-0025 Resolution.docx

When Recorded Return To:

Imperial County Planning & Dev. Services Dept.
801 Main Street
El Centro, California 92243

CONDITIONAL USE PERMIT (CUP) #18-0025 (LANDFILL)
(Superseding Conditional Use Permit #05-0020)
FOR A CLASS II SOLID WASTE MONOFILL FACILITY
(Desert Valley Company)

This Agreement is made and entered into on this _____ day of _____20__, by and between Desert Valley Company, (hereinafter referred to as "Permittee"), and the County of Imperial, a political subdivision of the State of California, (hereinafter referred to as "County").

RECITALS

WHEREAS, pursuant to the application for Conditional Use Permit #18-0025, which supersedes Conditional Use Permit #05-0020, the Final Environmental Impact Report (SCH #2019120605), the County of Imperial, hereby issues to Desert Valley Company, and the Permittee hereby accepts, this Conditional Use Permit #18-0025 as amended and supersedes Conditional Use Permit #05-0020 for the development, operation, closure and post-closure of a California Class II non-hazardous solid waste landfill for geothermal, non-hazardous waste streams, in accordance with and subject to Title 9 and Title 14, Division 7, and Title 23 of the California Code of Regulations, and subject to all of the terms and conditions specified herein; and

WHEREAS, Permittee is the owner, lessee or successor-in-interest in certain land in Imperial County known as Section 33, Township 12 South, Range 11 East, identified as the Assessor's Parcel Number 019-100-004-001.

WHEREAS, Conditional Use Permit #18-0025 (Final Environmental Impact Report SCH #2019120605) was heard by the Imperial County Environmental

Evaluation Committee for the expansion of the existing monofill facility by adding a new waste disposal cell (Cell 4) and associated facilities as well as adding a new on-site water well (under a separate permit CUP #21-0002). The proposed project would expand the existing facility by approximately 80 acres and would provide an additional 46.2 acres (45 acres for Cells 4A and 4B and leachate pond) or 2.6 million cubic yards of disposal capacity. The FEIR was distributed for public review. All public comments were considered and included in preparing the conditions to Conditional Use Permit #18-0025.

WHEREAS, Permittee has applied to the County for Conditional Use Permit #18-0025 (superseding CUP #05-0020).

WHEREAS, County, after a noticed public hearing, agreed to issue Conditional Use Permit #18-0025 to Permittee, and/or their successor-in-interest subject to the following conditions:

(G) GENERAL CONDITIONS:

The "GENERAL CONDITIONS" are shown by the letter "G". These conditions are conditions that are either routinely and commonly included in all Conditional Use permits as "standardized" conditions and/or are conditions that the Imperial County Planning Commission has established as a requirement on all CUP's for consistent application and enforcement. The Permittee is advised that the General Conditions are as applicable as the SITE SPECIFIC conditions!

G-1 ACQUISITION PERMITS/LICENSES AND COMPLIANCE WITH GENERAL LAWS:

Permittee shall obtain, comply with, and maintain all applicable County, State, and federal permits, licenses, and/or approvals, including, but not limited to those required by Imperial County Planning and Development Services Department, APCD, County Division of Environmental Health Services (EHS), and Public Works Department. Additionally, Permittee agrees to comply with all applicable laws, ordinances, and/or regulations promulgated by County, State, and Federal jurisdictions whether specified herein or not. Furthermore, Permittee shall submit a copy of such additional permit/license to the Planning and Development Services Department within thirty (30) days of receipt.

G-2 PERMITS/MONITORING-RELATED FEES:

The Permittee shall pay any and all amounts, as determined by County, to defray all costs for monitoring, review of reports, field investigations, or other activities related to the compliance and enforcement of this permit, during its active life, closure as well as any post -closure period.

G-3 REPORTS:

Permittee shall at a minimum be required to submit to the Planning and Development Services Department, the following reports;

1. An "Annual Compliance Report," which shall be filed with the Planning Director and describes Permittee's efforts to comply with the CUP, and other permits, and shall be in a format determined by the Planning Director. The Annual Compliance Report shall also contain Certificates of Insurance as required by Section G-11, a current Site Development Plan, which will include a recent (a new updated version every third year) aerial photo (scaled at 1:200 or 1:400) of the site and changes in any Site Closure Plan. The annual Compliance Report shall be submitted no later than May 1 of each year, and shall cover the preceding 12-month period ending December 31 of each year.

2. The Permittee shall provide a quarterly report for all waste received. The report shall include the total tonnage, the type of waste(s), the origin of waste and copy of other information requested by the Planning Director. The quarterly report shall be submitted within 100 days of the end of the preceding quarter.

3. 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 Director, Health Officer, and/or Air Pollution Control Officer (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.

4. The 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.

G-4 VIOLATIONS OF REPORTING REQUIREMENTS:

Failure by Permittee to timely submit any report pursuant to Section G-3 (1 & 2) shall be a violation of this permit, which may be enforced pursuant to Section G-17 or at the discretion of the Planning Commission. The County shall also as a penalty impose a double cost charge for the review of such reports.

G-5 NUISANCE PER SE/NUISANCE:

As between the County and the Permittee, any violation of this permit is a "nuisance per se". The County may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provision of this paragraph shall not apply to any claim of nuisance per se brought by a third party.

In addition, Permittee shall not be permitted to maintain a "nuisance", which is anything which: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, 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 treatment, handling or disposal of any waste.

G-6 RESPONSIBLE AGENT:

All site operations shall be under the control of a responsible agent. The name of this agent and an alternate, along with their telephone number(s), so that either can be reached on a 24-hour basis, shall be provided to the County Planning and Development Services Department, the County Department of Health Services, Division of Environmental Health Service, the Public Works Department, the Air Pollution Control District, and the Office of Emergency Services Coordinator. All offices shall be kept immediately apprised of any change in the responsible agent(s).

G-7 ENCROACHMENT PERMIT:

Encroachment permit(s) for access to the site via Highway 86 or any other County or State highway shall be secured from the appropriate agency, prior to any new construction or change in operations. Improvements to any such highway shall meet the respective agency's standards and/or requirements.

G-8 CONSTRUCTION STANDARDS:

All structures, facilities, buildings, dikes, and monofill(s) at the Site shall be constructed in accordance with County ordinance(s) and the Uniform Codes, as adopted by the County, for Seismic Zone 4, and be in compliance with State and federal regulations. Permits from all agencies (electric, plumbing, grading, among others) shall be secured as required by applicable law for all facilities prior to any construction being commenced.

G-9 ARCHAEOLOGY:

A Culture Resource Technical Report and Plan to protect significant artifacts on-site, or to remove them for preservation shall be maintained. The appropriate portions of

the plan shall be implemented if at any time unusual specimens of stone, bone, or any other artifacts are encountered.

The 2002 Cultural Resources Investigation by URS Corporation, concluded that in order to mitigate the potential the north-south access road into the Monofill facility, the on-site operations complex should be located to the west side of the road would ensure that site CA-Imp-6146 would be avoided.

Further disturbances shall be halted until an archaeologist, approved by the County, is consulted. All mitigation measures required by the FEIR and recommended by the archaeologist shall be implemented prior to proceeding, and a Special Report shall be made to the County Planning and Development Services Department and IVC Museum of all actions taken, as appropriate. Mitigation shall be achieved through avoidance or through testing and data recovery specifically for sites CA-IMP-6141, CA-IMP-6145, and CA-IMP-6146.

G-10 TRAINING:

Permittee shall provide training to employees for all site operations as well as in handling emergency spills. Training shall be given annually, and shall be available to representatives of any enforcement agency that may require knowledge of specific training relating to spills, etc. An Employee Training Plan shall be available on-site, and on file with the Planning and Development Services Department.

New employees will be oriented as to the presence of NORMS; its radiological properties, hazards, symptoms, and all other health and safety related implications. Documentation of this training shall be included in the Annual Report and will also be included in periodic safety meetings.

G-11 INSURANCE AND INDEMNITY:

(a) Permittee shall, for the life of the site and any post closure period maintain adequate "general", "automotive", and "property damage" liability insurance to protect person(s) or property from injury or damage caused by the operation(s) of the facilities and/or Site.

(b) The Permittee shall secure and maintain Workers Compensation Insurance as required by the State of California. The Permittee shall also secure liability insurance and such other insurance as may be required by the State and/or Federal Law. A Certificate of Insurance is to be provided to the Planning and Development Services Department by the insurance carrier and said insurance and Certificate shall be kept current for the life of the project. Certificate(s) of Insurance shall be sent directly to the Planning and Development Services Department by the insurance carrier and shall name the Department as a recipient of both renewal and cancellation notices. Failure to maintain required insurance shall result in the immediate revocation of this permit.

(c) All insurance policies required shall name the County as either an additional insured or an additional loss payee. Certificates of Insurance shall be provided to the County Planning and Development Services Department annually in the Annual Compliance Report as defined in Section G-3, and such other times as may be requested.

(d) Notwithstanding the availability of any insurance coverage required herein, Permittee shall identify, defend, and save harmless the County, its Board of Supervisors, and all Officers, employees, and agents, (the "Indemnities) against any and all claims, actions, liabilities related to the County's issuance of the permit or the Permittee's monitoring of this permit, or arising out of negligence, misconduct, or action by Permittee, Corporate Officers, its agents, or employees, in operation at the site or facility, and/or transportation of any waste material to the site, except that Permittee shall not be obligated to indemnify and save harmless, "indemnities" against such claims or actions or liabilities arising out of such indemnities own acts of negligence, or from the non-negligent performance of Permittee of some action ordered or directed by the Indemnity. Prompt notification of any such claim, suit, action or cause of action shall be given to Permittee. The County agrees to cooperate in assisting Permittee in opposing or defending any third party claim, suit, or cause of action, which is, tendered pursuant this paragraph. Choice of legal counsel to defend any such action shall be Permittee's subject to the approval of the County Board of supervisors, which approval shall not be unreasonably withheld.

G-12 PROVISION RUN WITH LAND/PROJECT:

The provisions of this project are to run with the land/project and shall bind the current and future owner(s) successor(s) of interest, assignee(s) and/or transferee(s) of said project. Permittee shall not without prior notification to the Planning and Development Services Department assign, sell, or transfer, or grant control of project or any right or privilege therein. The Permittee shall provide a minimum of 60 days written notice prior to such proposed transfer becoming effective. In the event that the new owner or assignee or transferee has a history of non-compliance with environmental laws or is not of substantial equivalent or superior financial capability and/or responsibility or is not willing to or has not agreed to in writing to abide by the terms or conditions of this permit, the Planning and Development Services Department shall bring this matter to the Planning Commission for either revocation or modification to the permit.

G-13 ROUTES:

Permittee shall instruct all geothermal solid waste haulers of the recommended hauling routes within County and follow the identified routes to avoid urban areas. Trucks shall operate with headlights on at all times going to and from the site.

G-14 SEISMIC DETECTION:

Permittee shall establish and maintain a program satisfactory to the County Public Works Director for detecting ground disturbances, including new faulting or fault fractures. Upon approval by the Public Works Director, Permittee shall implement and carry out the approved plan or program.

G-15 APPEALS:

Any decision/determination by the Planning Director that is appealed by Permittee shall be appealed to the Planning Commission. Any Planning Commission determination provided for in this permit is subject to appeal in the same manner as other determinations of Conditional Use Permit application are appealable.

G-16 APPROVAL OF PLANS, PROGRAMS OR INTERPRETATIONS:

(a) Whenever Permittee is required to prepare and submit, for County approval, a Site Procedures Plan, Seismic Plan, Archaeologist Plan, or where Permittee requests a minor change or interpretation pursuant to Section G-21 below, and the Hazardous Material Committee (HMC) fails to approve or disapprove of such plans or procedures or minor change within 60 days from the date they are submitted, the plans or procedures or minor change shall be deemed denied.

(b) If the HMC disapproves any such plan, procedures, or minor change, Permittee may request a hearing to be conducted before the Planning Commission. After receipt of the request, including payment of fees, and upon reasonable public notice, the Planning Commission shall conduct a hearing and make a written determination approving or disapproving the plan or procedure or minor change. Any action on a plan or procedure or minor change, must be reasonable and must be based upon specific, enumerated concerns about human health, safety, or the environment. The Planning Commission may request specific advice form technical advisory committee(s) and/or consultants. Failure of the Commission to act within the required time period shall constitute an adoption of any staff determination.

G-17 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 Director shall provide Permittee with notice and a reasonable 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 be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate prosecuting authority.

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

The notice shall contain:

1. The time and place of the hearing;

2. A statement as to the reasons why the Planning Commission proposes to modify, suspend, or terminate the CUP;

3. Any proposed modification to the CUP; and other information which the Planning Commission considers necessary or desirable to inform Permittee or the public of the nature of the hearing.

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

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

G-18 INDUSTRIAL HYGIENE/HEALTH HAZARDS:

If the County Health Officer determines that a significant health hazard exists to the public or employee, the County Health Officer may require appropriate measures and Permittee shall implement such measure to mitigate the health hazard, subject to the procedure set forth in Section G-17 (a) above, for enforcement or abatement orders and their enforcement. Notwithstanding the above, if the hazard to the public is determined to be imminent, such measures may be imposed immediately and may include temporary suspension of the subject operations. However, within 45 days of

any such suspension of operations, the measures imposed by the County Health Officer must be submitted to the Planning Commission for review and approval. Nothing shall prohibit Permittee from requesting a special Planning Commission meeting, provided Permittee bears all costs.

G-19 ANNUAL CUP REVIEW:

Permittee shall assist the Planning Director to the extent requested in preparing an annual review/report of the Conditional Use Permit/project.

G-20 INVALID CONDITIONS:

If any section, subsection, sentence, clause, or phrase of the CUP is for any reason held to be invalid, by a Court of proper jurisdiction, the County may 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. If similar conditions cannot be imposed, then the Commission may seek revocation of this permit pursuant to the provisions of Section G-17 above.

G-21 MINOR CHANGES:

The HMC may approve minor changes to the design, construction, and/or operation of the facility which are generally procedural or technical. Minor changes shall be as determined by the Hazardous Material Committee and the decision of the HMC shall be final unless appealed to the Planning Commission, provided said minor changes do not conflict with other regulatory permits.

G-22 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-23 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 Planning Commission of the County of Imperial. Their determination shall be final unless an appeal is made to the Board of Supervisors within the required time. See Section D for defined definitions.

G-24 SPECIFICITY:

The issuance of this permit does not authorizes the Permittee to construct or operate this project in violation of any state, federal, local law nor beyond the specified

boundaries of the project as shown the application/project description/site plan/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 additions or modifications to this project.

G-25 RECORDATION:

This permit shall not be effective until it is recorded at the Imperial County Recorder's Office, and payment of the recordation fee shall be the responsibility of the Permittee. If the Permittee fails to pay the recordation fee within six (6) months of the approval date, this permit shall be deemed null and void.

G-26 CONDITION PRIORITY:

This project shall be constructed/operated as described in the Conditional Use Permit application, the Environmental Assessment, the project description, and as specified in these conditions. Where a conflict occurs, the Conditional Use Permit conditions shall govern and take precedence.

G-27 TIME LIMIT:

This Conditional Use Permit is issued to the Permittee for a period of thirty (30) years starting from date of recordation of this CUP, and is subject to substantial compliance by Permittee with all applicable conditions, including but not limited to, on-going monitoring. For purpose of calculating the term of the Conditional Use Permit, the closure and post-closure time required by law is excluded. This CUP may be extended as follows:

This CUP may be extended for one additional 10-year term by the Planning Commission or, on appeal, by the Board of Supervisors following public notice and hearing in accordance with the following provisions:

(a) Permittee files a written request with the Planning & Development Services Department at least 180 days prior to the expiration of the extension term;

(b) There has been no significant change in the general operation of the project and Permittee is in substantial compliance with all applicable conditional use permit conditions and all related permits as reviewed and presented to the Commission/Board in a report from the Planning & Development Services Department;

(c) Permittee has no outstanding or on-going violations to other permits/approvals from any local, State, or Federal regulatory agencies;

(d) Permittee has complied with any and all notices, orders, or other written requirements from the respective enforcement agencies;

(e) There are no new project related significant environmental impacts and any project related impacts, previously identified in the EIR, remain less than significant; and,

(f) The regulatory requirements pertaining to the operation of the landfill have not changed significantly or changes have been or can be incorporated as conditions applicable for the next permit term.

G-28 AMENDMENTS:

Amendments to the Conditional Use Permit requested by Permittee shall be submitted in writing with applicable fees to the Planning & Development Services Director. Within twenty (20) days of submitting such an application, the Planning & Development Services Director shall determine whether the requested amendment is either a major amendment or a minor amendment. Minor amendments are those amendments to the design, construction, or operation of the Landfill that do not result in additional environmental impact or which may be necessary to comply with requirements or regulations of other governmental agencies. All other amendments may be considered major amendments by the Planning & Development Services Director. All amendments shall be processed in accordance with applicable state and local requirements, including any required environmental review, notice and hearing.

(End of "G" Section)

(S) SPECIFIC PROJECT CONDITIONS:

PROJECT DESCRIPTION

The Permittee intends to expand the existing Desert Valley Company Monofill Facility with the construction of a new waste disposal cell (Cell 4) and associated facilities and continue the current operations of the permitted Class II Monofill Facility. They are also proposing a new water well (under a separate permit CUP #21-0002) for use during construction and operation of the expansion (Cell 4) and for the capping and closure of the existing Cell 3.

The expansion would increase the disposal capacity of the monofill by 46.2 acres (45 acres for Cells 4A and 4B and leachate pond) or 2.6 million cubic yards and extend its operational life to approximately 2080.
The previous CUP #05-0020 was to add a third Cell to the existing Monofill facility and to request more water for dust mitigation. The previous CUP to #05-0020 was CUP #02-0003, which allowed the Permittee to continue to operate the Class II Monofill facility, limiting it to only accepting non-hazardous waste streams generated

by the Permittee's own Imperial County geothermal plants with no out-of-county waste allowed. The existing facility is comprised now of three Cells but will be close to reaching full capacity, which is why the applicant has requested to expand the existing facility to add a new waste disposal cell and a new water well.

S-1 MAXIMUM ANNUAL TONNAGE:

The maximum annual average daily tonnage will be 750 tons per day (estimated 273,750 tons per year). The maximum permitted traffic is 38 vehicles per day to handle the 750 tons per day. Any increase must be approved by the Planning and Development Services Department.

S-2 HOURS AND DAYS OF OPERATION:

Operation at the site shall not exceed 6:00 AM to 6:00 PM, 12 hours per day, 7 days per week, except when prohibited by regulatory agencies.

S-3 REQUIRED WASTE ANALYSIS:

The Permittee shall prepare and submit to EHS, any changes to the Waste Handling Plan for their review and approval.

Pre-disposal and on-site analysis of wastes intended for disposal at the site shall be accomplished as set forth in the approved Waste/Storage Handling Plan. Pre-disposal and on-site procedures and analysis shall be readily available to all monitoring agencies. A material tracking and shipping system shall be used for the hauling and disposal of all filter cake, mud sump, and other non-hazardous geothermal materials; this system shall be approved by the County Environmental Health Services Division prior to operation.

The generator, hauler, and dispenser of filter cake, mud sump, and other non-hazardous geothermal materials shall certify compliance with requirements for documenting the proper handling of all materials to be stored/disposed of at the site. Certification shall be made to the Environmental Health Services Division with notification to the Planning and Development Services Department in writing.

S-4 VEHICLE/EQUIPMENT MAINTENANCE:

Permittee is authorized to perform vehicle/equipment maintenance directly related to equipment used for on-site operations. Any hazardous waste removed during maintenance shall be disposed of, as required by the latest Federal, State and County laws and/or regulations.

S-5 AIR QUALITY MONITORING:

Permittee shall install air quality monitoring systems of the type and at the locations as the APCD shall require to measure the amount of any air contaminant which is emitted from the site, or to ascertain the impact on ambient air.

Ambient Air Monitoring Plan as required by the Imperial County APCD for air monitoring requires that a radiological assessment be conducted each quarter. Appropriate action levels have been established for worker and public exposure in "California Radiation Protection Regulations" (California Code of Regulations, Title 17-30344). Title 17 establishes the following action levels for Ra226 and Ra228: worker exposure (Ra226 concentration of 5.00E-11 u ci/ml and Ra228 uCi/ml) and public exposure (Ra226 2.00E-12 Uci/ml and Ra228 1.00E-12 uCi/ml).

Radiological Monitoring Plan as required and enforced by the Environmental Health Services Division. Monitoring shall be conducted to ensure the expected minimal exposure/dose at and around the Monofill. It will consist of on site workers wearing film badge dosimeters which measure external radiation exposure. Workers shall not receive more than the occupational dose limit set by Title 17-30265 for whole body exposure of 1.25 REM per calendar quarter.

Installation of a weather station to record wind speed and direction.

Illumination of a light in the Monofill office whenever the wind speed exceeds 13 mph, signaling that all disposal operations must cease.

Daily use of Soil Seal or equivalent to minimize wind-blown particles.

Cessation of all earth moving activities whenever the wind speed exceeds 21 mph.

To document the effectiveness of the Wind Dispersal Prevention program, ambient air monitoring for total particulates shall be performed. This monitoring shall occur every six days on the same schedule that the Imperial County Air Pollution Control District performs its particulate sampling for the Imperial Valley.

The monitoring shall occur at three locations spaced along the perimeter of the Monofill. Locations to ensure that at least one monitor shall be upwind and one downwind of the Monofill shall be approved by APCD.

The monitoring program shall consist of High Volume Particulate Samplers that will collect total suspended particulates for a 24-hour period. The results of this monitoring shall be submitted to the Imperial County Air Pollution Control District on a monthly basis.

On a quarterly basis, the sample with the highest loading (greatest particulates) shall undergo radiological analysis. The sample shall be analyzed for Gross Alpha, Gross

Beta, with a gamma spectroscopy performed. The results and evaluation as relates to health, safety and environment of this analysis shall be reported to the Imperial County Environmental Health Services Division and the Planning and Development Services Department in the monthly report following receipt of the analytical results.

This ambient air monitoring is subject to approval by the APCD and the County of Imperial Environmental Health Services Division. Should APCD and/or the County of Imperial Environmental Health Services Division require additional mitigation, any new measures shall be incorporated into the Wind Dispersal Prevention Program.

S-6 SITE OPERATIONS:

The site shall be constructed and maintained in accordance with all approved CUP conditions, and building/structure code requirements. Permittee shall maintain a Site Operations Plan complying with all County, State, and Federal regulations. A copy of all proposed changes to the approved plan shall be forwarded to the HMC for review each time a change is proposed as required in Section G-22. Copies of any proposed changes in the plan shall be submitted to the Planning and Development Services Department. In the event of conflict between the plan and this CUP, the CUP governs.

The emergency response/contingency plan shall be maintained throughout the entire operation of the Monofill facility. The plan shall be developed to minimize hazards to human health and the environment from fires, explosions, or any sudden or non-sudden release of wastes or waste constituents to air, soil, or surface water at the Monofill facility. The plan shall be implemented whenever there is a real or suspected threat to human health or the environment.

(a) The Site Operations Plan shall contain a set of procedures and requirements which are directly related to the safety and health of employees and visitors to the site and concerning operations on-site and adjacent to the site. An Emergency Response Plan will be available on-site in case of emergency.

(b) In the event of a conflict between any regulatory plan or permit, the most stringent shall apply.

(c) DVC shall immediately notify OES, the Planning and Development Services Department and the Environmental Health Services Division (EHS) when an emergency occurs at the site.

S-7 SITE CLOSURE, FINANCIAL RESPONSIBILITY, AND POST-CLOSURE PLAN:

(a) Permittee shall maintain an applicable Site Closure Plan and a Post-Closure Plan, complying with all State and Federal laws and regulations. Said plan(s) shall contain detailed procedures for Closure and Post-Closure for the facility. A

monitoring system, and a procedure for funding these plans for a minimum of 30 years subsequent to closure is required. Permittee shall advise the County of any changes pursuant to Section G-21, and include the status of any changes in the plan(s) in the Annual Compliance Report.

(b) Environmental Impairment Liability Insurance ("EIL"), including sudden/non-sudden pollution liability, transportation in vehicles and vessels, shall be maintained in compliance with State and Federal requirements or compliance schedules issued by those jurisdictions. A minimum of two million five hundred thousand dollars in a form acceptable to the County for Site Specific EIL coverage shall be maintained by Permittee. Permittee at its discretion or election may post such other financial assurance subject to acceptance by the Board of Supervisors.

S-8 DUST CONTROL:

The access road(s) shall be paved and shall be maintained in a dust-free manner and safe for vehicle access. Internal operations of the disposal site shall be maintained dust-free by water or other control measures as approved in the Site Operations Plan, including but not limited to, spraying the monofill materials at the end of each working day with a soil sealant polymer.

S-9 VEGETATION:

Any sensitive, rare or endangered vegetation found shall be appropriately relocated, if possible, to other areas prior to any construction, including dikes, and/or monofill(s) pursuant to appropriate state or federal requirements.

S-10 FLOOD WATERS:

Any water diversion dike(s), channel(s), and/or embankment(s) in Section 33, shall protect the site against a 100-year, 24 hour storm, and shall be designed by a Civil Engineer, reviewed, and approved by the Public Works Department.

S-11 LIGHTING:

Permittee is allowed to have security as well as operational lighting. Said lighting shall be shielded and direct to on site areas to minimize off site interference from unacceptable levels of light or glare.

Structures constructed on site shall be of earth tone coloration to minimize their potential visibility. If night lighting is required, directional lighting fixtures shall be used to reduce potential glare onto adjacent properties and to minimize night glare.

Although impacts to visual resources are not considered significant, the above mitigation measures have been provided. To ensure these measures are implemented properly during plan check, County staff shall inspect and approve a color sample of the structures to be constructed. A site visit shall be conducted by

County staff to ensure the colors used match what was specified prior to the issuance of an occupancy permit. Potential glare impacts to adjacent properties shall be monitored through complaints made to the County. If complaints are received, the appropriate County regulatory agency shall conduct site visits to evaluate and develop measures that would remedy the problem.

S-12 WILDLIFE PROTECTION:

Effective measures shall be employed to prevent wildlife from entering any monofill(s). If mortality of birds and/or animals occurs, Permittee shall install mesh cover or other effective measures approved of by the California Department of Fish and Game to prevent entry by birds and/or animals, as applicable.

S-13 GROUNDWATER MONITORING/HYDROLOGIC DATA:

(a) In addition to the groundwater monitoring program described in any Site Operation Plan and/or required by RWQCB, quarterly monitoring reports shall be provided to the Planning and Development Services Department and EHS/Health. Additional groundwater monitoring may be required by the County Health Officer upon a determination that there is cause, and shall be performed by Permittee. When any groundwater samples are to be taken, the County Health Officer and Planning and Development Services Department shall be advised in advance so that a representative of that office and/or Planning and Development Services Department may be present to verify procedures and to insure that a representative sample is taken. Test result(s) shall be submitted to both Departments within 10 days of receipt of lab results. Under no circumstances shall tests be submitted later than 180 days of obtaining samples. Any field perimeter tests shall be reported within 10 days.

(b) Data shall be included in the final project design will include (but not limited to) the following information:

- An evaluation of the water-bearing characteristics of the natural geologic materials, including determination of permeability, delineation of all groundwater zones, and the basic data used to determine the above.

- An evaluation of the in place permeability of soils immediately underlying the Class II waste management unit including presentation of the permeability data in tabular form, a map of the unit showing test locations where these permeability data were obtained, and an evaluation of the test procedures and rationale used to obtain these permeability data.

- An evaluation of the perennial direction(s) of groundwater movement within the uppermost groundwater zone within one mile of the waste management facility perimeter.

- Estimates of the height of the capillary fringe above the uppermost groundwater zone beneath and within one mile of the waste management facility perimeter, including an evaluation of all methods and the rationale used in their development.

- A map showing the location of all springs in the area proposed for the monofill and within one mile of its perimeter, as well as a tabulation of mineral quality and flow data for each spring.

- A water quality evaluation of the water know to exist under or within one mile of the monofill facility perimeter, including all data necessary to establish water quality protection standards.

- A tabulation of background water quality data for all applicable indicator parameters and waste constituents.

- Establishment of a water quality monitoring system pursuant to direction by RWQCB.

- An evaluation of runoff qualities and drainage patterns within the project site and vicinity, including an estimate of the PMP storm event.

- An evaluation of potential erosion impacts associated with the proposed project and the generation of appropriate mitigating measures. Such measures may include the use of protective facings, channelization of threatened drainages, or construction of energy dissipating or sedimentation facilities (e.g., detention basins).

S-14 RIGHT OF ENTRY:

The County reserves for itself and other enforcement, regulatory or monitoring agencies the right to enter the premises with the knowledge of Permittee and in accordance with Permittee's access procedures to make appropriate inspections and to determine if the conditions of this permit are being fulfilled. Permittee shall not deny or restrict access by enforcement agency personnel. Inspections may be at any time, day or night, and may include announced and unannounced inspections. Except for standard safety regulations and procedures, inspectors shall have unrestricted access to all portions of the site.

S-15 SITE WATER USAGE:

Permittee shall, if appropriate, secure any necessary future water rights from the IID. The Planning Director may grant extensions of time, not to exceed a total of one year, upon good cause shown by Permittee. No water for site usage after construction shall be taken from IID canals, laterals or reservoirs by pumpers, trucks or tankers. All water trucked on-site shall be stored in a dedicated 1,000 gallon or larger tank. A separate water well CUP has been issued for this project. Any future

use of groundwater or IID water supplies and conveyance facilities shall receive prior approval from the appropriate responsible agency.

The Planning and Development Services Department will be kept apprised of any requests made to IID for on-site water usage beyond that water trucked on-site and stored, and groundwater well water usage.

S-16 INJECTION WELL(S):

Injection well(s) of any type or any use are strictly prohibited on this site.

S-17 PRIVATE ACCESS ROAD/LEVEES:

The access road will avoid the culture resource site (IMP-6141/MON-5-4) by moving road 100' west, or as the Final Grading Plan approved by BLM and Department of Public Works dictates. The access road shall be paved, and maintained in good repair with adequate off-road drainage.

All roads constructed shall have a gravel surface for internal traffic on or off levees. All traffic on levee roads shall travel less than fifteen (15) miles per hour.

The truck traffic generated by the proposed development will have a significant impact on the access connection to SR 86. Therefore, the applicant must maintain the pavement condition to the Department's standards during and at the conclusion of the operation of the Monofill.

The existing driveway connection to SR 86 must be improved to the Department's (Caltrans) standards as prescribed in the Highway Design Manual Section 205. Traffic control guidelines addressing short-term construction must also be submitted for our review;

Any work performed within Caltran's right of way will require an encroachment permit. Road construction activities conducted on BLM land shall conform to all design specifications provided by that agency.

S-18 LIMITED USAGE:

The site shall only be used for the disposal/storage of waste generated by power plants and geothermal operations (all located in Imperial Valley) by wholly-owned subsidiaries of Magma Power Company or by one of its affiliates. In the event that Magma Power Company sells substantially all interest in one of its facilities and that facility requires the continued use of the Desert Valley monofill, Magma Power will, in writing, assign the right to use Desert Valley for such facility (retaining for MPC the right to use as to all other facilities) subject to the consideration of the Planning Director and approval by the Planning Commission of Imperial County.

S-19 RECYCLING PROHIBITED:

This Conditional Use Permit does not permit the recycling of any of the waste disposed/stored on-site, other than the removal of the filter cake material from the site, to another site for processing. In the event that recycling of the waste is proposed, an amendment of this Permit shall be necessary prior to any recycling activities occurring on-site.

S-20 MINERAL EXTRACTION ACTIVITIES:

This Conditional Use Permit does not allow any mineral extraction activities for any of the waste disposed/stored on-site, other than the removal for processing. In the event that mineral extraction is to be commenced, an amendment of this Permit or a new conditional Use Permit shall first be secured.

S-21 PROJECT DESIGN/CONSTRUCTION:

(a) Project design (with specific regard to geology/seismicity) shall be in conformance with requirements for Class II waste management units listed in Title 23 of the California Code of Regulation (Subchapter 15).

(b) All structures constructed on-site shall be of earth tone coloration to reduce visual impacts.

(c) Final project design shall comply with all California Code of Regulations. title 24, Uniform Building Code, and RWQCB and the County of Imperial standards regarding the nature, location, and construction of proposed facilities.

(d) All construction work shall be confined to the designated project area. Construction staging areas should coincide with the project area.

(e) All vehicles shall remain on roads. No off-road vehicle travel should be authorized without prior approval by BLM or CDFG.

(f) Access to the project area shall be controlled by gating.

(g) Access roads shall be paved to eliminate the amount of time the flat-tailed horned lizard spend on roads and potentially reduce lizard mortality.

(h) Screening shall be put in the fence around the project site to reduce flat-tailed horned lizards entering the landfill area and potentially reducing lizard mortality.

(i) Project design shall incorporate peak ground acceleration loading values of 0.48 g unless modified recommendation are provided by the geotechnical consultant.

(j) Final project design shall incorporate all measures deemed appropriate by the geotechnical engineer on the basis of existing and future site-specific investigations. Additional analysis of the project site should be conducted to evaluate potential impacts associated with repeated high ground acceleration, localized liquefaction potential, expansive and reactive soils, and wind generated erosion. Mitigation measures derived from these analyses may include the following types of requirements:

- Over-excavation of unsuitable base materials and replacement with approved and properly compacted structural fill.

- Use of moisture, chemicals, engineering, and/or drainage methods to control expansive behavior of underlying clay soil, if appropriate.

- Use of non-steel or coated (usually polyethylene encasement) steel conduits, sulfate resistant cement, or other protective material in areas of corrosive soils.

- Appropriate design of fill slopes associated with berms, storage/disposal facilities, building pads, etc., to minimize facilities, building pads, etc., to minimized potential seismically induced landsliding.

- This may include measures such as establishing maximum slope grades and the use of stabilizing materials or buttressing.

- Proper design of surface and subsurface drainage devices.

- Initiation of settlement monitoring if appropriate.

- Appropriate design, location, and construction of erosion control methods and devices.

- Scarification of all compacted areas to reduce erosion potential.

- Identification of appropriate wind erosion mitigation measures (if necessary) such as the use of chemical or physical stabilizers, appropriate operating schedules, etc.

S-22 EROSION:

The project shall reduce erosional impacts to extent possible through use of protective facing, channelizing of threatened drainages, or construction of energy dissipating or sedimentation facilities, e.g. detention basins.

The project applicant must receive discretionary approval from Caltrans prior to making any modifications to Caltran's flood control levee.

S-23 GROUNDWATER:

Any impact of groundwater associated with the project shall require approval from the Regional Water Quality Control Board (RWQCB).

A detailed hydrological analysis of the project site and vicinity shall be conducted by a qualified hydrologist and this investigation must be conducted pursuant to requirements in Title 23 of the California Code of Regulations (Subchapter 15). This investigation must be incorporated into the final project design and approved by RWQCB.

S-24 FUGITIVE EMISSIONS:

All fugitive dust emissions as well as emissions of solid constituents of the filter cake and mud sump material shall be reduced to a level of non-significance from an uncontrolled level as determined by APCD. In addition, Imperial County Air Pollution Control District (APCD) will require such mitigation measures deemed necessary through a Wind Dispersal Prevention Program to insure that the proposed project will not significantly impact the local and regional air quality.

S-25 BIOLOGICAL RESOURCES:

A survey has been completed to determine potential impacts to the FTHL (Flat Tailed Horned Lizard). The final grading plan should be reviewed by a qualified biologist to ensure that no significant impact to the FTHL will occur, and that impacts to the Salton Milkvetch are minimized to the extent possible.

The FTHL Management Plan will be available on-site and be utilized prior to site excavations or grading taking place. The loss of FTHL habitat will be compensated commensurate with appropriate state and federal requirements.

S-26 DIKES(S), AND/OR MONOFILL(S) CONSTRUCTION:

All dike(s), and/or monofill(s), shall be designed and constructed under the supervision of a civil engineer registered in the State of California. The supervising engineer shall certify that the work will maintain its integrity after being subjected to a maximum credible earthquake. Construction of any dike(s) and/or monofill(s) shall comply with all applicable County, State and Federal permitting requirements and shall be fully inspected by the County prior to being placed in use. The County may require each construction to be inspected by a third party consultant, at discretion of the Planning Director with the Permittee paying all costs of each such consultant.

S-27 LOCAL EQUITY PAYMENT(S):

The Permittee shall pay to the County Executive Office an annual fee in the amount of 20% of the combined gross total of all monitoring costs incurred by County

monitoring departments. This fee shall be in addition to the required monitoring cost fees to be paid by Permittee.

(End of 'S' Section)

(C) PROHIBITED WASTES/ALLOWED WASTE:

P- (1) PROHIBITED WASTES

The following waste (s) shall not be accepted and/or delivered to the Site for disposal or storage:

(a) Radioactive wastes (except for NORM's associated with the geothermal material approved for the site)

(b) Infectious wastes (including biological and chemical warfare agents)

(c) Water reactive wastes

(d) Air reactive wastes

(e) Strong oxidizers

(f) Compressed Gases

(g) Explosives

(h) PCB wastes (or any material containing any P.C.B.'s)

(i) Any waste designated as a hazardous waste by CCR, Title 22 and/or 23.

(j) Any waste that by State and/or Federal law is required to be disposed or treated at a Class I facility.

P- (2) ALLOWED WASTES

The following dry waste(s) shall be allowed to be stored and disposed on-site from plants and geothermal operations (all located in Imperial Valley) by wholly owned subsidiaries of Magma Power Company or by one of its affiliates:

(1) Those Drilling Muds Typical Analyses, Filter Cake Typical Analyses (Tables 1 and 2 of previous DVC Application), and soil contaminated with geothermal material which are non-hazardous.

(2) If upon analysis any load of drilling muds, cuttings, silica filter cake solids, and other geothermal materials are found to be "hazardous", it must be disposed of as required by the latest Federal, State, County laws and/or regulations.

(3) In the event that Magma Power Company sells substantially all interest in one of its facilities and that facility requires the continued use of the Desert Valley

monofill, Magma Power will, in writing, assign the right to use Desert Valley for such facility (retaining for MPC the right to use as to all other facilities) subject to the consideration of the Planning Director and approval by the Planning Commission of Imperial County.

(4) Non-Hazardous waste streams generated at the applicant's Mineral Recovery Facility and lime and amorphous sulfur waste from the power plants to the approved list of waste steams accepted at the Monofill under this CUP.

(End of "C" Section)

NOW THEREFORE, County hereby issues Conditional Use Permit #18-0025 (Superseding CUP #05-0020) and Permittee hereby accepts such permit upon the terms and conditions set forth herein.

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

Permittee	COUNTY OF IMPERIAL, a political Subdivision of the STATE OF CALIFORNIA
By_____ Representative of Desert Valley Company	By:_____ Jim Minnick, I. C. Planning Director
Dated_____	Dated_____

PERMITTEE'S NOTARIZATION

STATE OF CALIFORNIA

COUNTY OF IMPERIAL

On _____ before me, _____ a Notary Public in and for said County and State, personally appeared _____, personally known to me (or 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.

WITNESS my hand and official seal

Signature_____

_____

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_____
Number of Pages_____Date of Document_____
Signer(s) Other Than Named Above_____

COUNTY NOTARIZATION

STATE OF CALIFORNIA

COUNTY OF IMPERIAL

On _____ before me, _____, a Notary Public in and for said County and State, personally appeared _____, personally known to me (or 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.

WITNESS my hand and official seal

Signature_____

_____

_____

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_____
Number of Pages_____Date of Document_____
Signer(s) Other Than Named Above_____

Attachment I: Resolution for Conditional Use Permit (CUP) #21-0002

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, RECOMMENDING APPROVAL TO THE BOARD FOR "CONDITIONAL USE PERMIT #21-0002" FOR DESERT VALLEY COMPANY MONOFILL (DVCM) EXPANSION (CELL 4) PROJECT

WHEREAS, CalEnergy Operating Corporation has submitted an application for Conditional Use Permit (CUP) #21-0002 for new water well as part of the proposed Desert Valley Company Monofill (DVCM) Expansion (Cell 4) Project;

WHEREAS, a Final Environmental Impact Report (FEIR) (SCH #2019120605) and CEQA Findings have been prepared in accordance with the requirements of the California Environmental Quality Act, the State Guidelines, and the County's "Rules and Regulations to Implement CEQA," as Amended;

WHEREAS, the Planning Commission of the County of Imperial has been delegated with the responsibility of approvals, certifications and making recommendations to the Imperial County Board of Supervisors for approvals of conditional use permits;

WHEREAS, public notice of said application has been given, and the Planning Commission has heard, received and considered all oral and written protests, objections and evidence presented by interested parties at a public hearing held with respect to this item on December 16, 2021; and

WHEREAS, the Draft EIR was received by the State Clearinghouse on July 26, 2021 and circulated for a period of 50 days (SCH# 2019120605).

NOW, THEREFORE, the Planning Commission of the County of Imperial **DOES HEREBY RESOLVE** as follows:

SECTION 1. The Planning Commission has considered the proposed Conditional Use Permit #21-0002 prior to recommending approval and the County's consideration of the Project has been noticed in compliance with law.

SECTION 2. That the Project complies with the requirements of the Imperial County Code and is in accordance with State Planning and Zoning law therefore, the following findings are made pursuant to Imperial County Code § 90203.09 as follows:

A. The proposed use is consistent with goals and policies of the adopted County General Plan. (Imperial County Code § 90203.09.A)

The project includes a proposed amendment to the General Plan to match the land use designation of the existing monofill facility located on the same parcel (the remainder of Section 33) to be able to expand the facility (Cell 4). The new water well would be part of the proposed facility expansion and is needed to close the existing Cell 3 and for construction and operation of the new waste disposal cell. The approval of the General Plan would make the project consistent with the General Plan.

Additionally, an analysis of the overall's project's consistency with the General Plan goals and objectives relevant to the project can be found in Table 5.8-1 on the FEIR (SCH #2019120605).

B. The proposed use is consistent with the purpose of the zone or sub-zone within which the use will be used. (Imperial County Code § 90203.09.B)

The project includes a proposed zone change match the zoning of the existing monofill facility that is located within the same parcel. The approval of the zone change would make the whole parcel consistent with the Imperial County General Plan and Land use Ordinance.

C. The proposed use is listed as a use within the zone or sub-zone or is found to be similar to a listed conditional use according to the procedures of Section 90203.00. (Imperial County Code § 90203.09.C)

The project consists of the addition of a new waste disposal cell since the existing one (Cell 3) will soon reach maximum capacity. In order to continue with operations, the applicant intends to expand the Desert Valley Company Monofill (DVCM) Facility Expansion (Cell 4).A new water well is necessary for construction and operation purposes. The approval of the General Plan Amendment and Zone Change would allow the applicant to process a Conditional Use Permit for a "Solid Waste Facility" to expand their monofill and the new water well would be accessory to said use, both uses subject to a Conditional Use Permit (each).

D. The proposed use meets the minimum requirements of this Title applicable to the use and complies with all applicable laws, ordinances and regulation of the County of Imperial and the State of California. (Imperial County Code § 90203.09.D)

The Project complies with the minimum requirements of this Title by, among other things, obtaining a CUP, complying with the California Environmental Quality Act, and participating in the public review and hearing process. Development standards have been established for the Project pursuant to these processes, and will be enforced via imposition and enforcement of the Mitigation Monitoring and Reporting Program recommended for approval by separate Resolution, as well as the conditions of approval imposed on this CUP. The Conditions of Approval will further insure that the project complies with all applicable regulations of the County of Imperial and the State of California. Therefore, the proposed project meets the minimum requirements of the Land Use Ordinance, Section 90203.00.

E. The proposed use will not be detrimental to the health, safety, and welfare of the public or to the property and residents in the vicinity. (Imperial County Code § 90203.09.E)

The Environmental Impact Report prepared for the Project analyzed the Project's potential effects on the health, safety, and welfare of the public and property and found that, with mitigation, the Project has less than significant effects in all resources areas. Finally, the Project applicant has agreed to conditions of approval that support and promote the protection of the health, safety, and welfare of the County's citizens and property, and ensures that the County will not be negatively impacted environmentally or fiscally.

In addition, the project site is not near a residential community and is mostly surrounding by undeveloped open desert and by the existing monofill facility.

F. The proposed use does not violate any other law or ordinance. (Imperial County Code § 90203.09.F)

The proposed project will be subject to the Conditional Use Permit and current Federal, State and Local regulations. State Planning and Zoning Law (Cal. Govt. Code §§ 65000-66035) establishes minimum statewide standards for the regulation of local land use through planning and zoning. The County regulates local land use via Title 9 of the Imperial County Code. As found above, the proposed project is conditioned to be consistent with Imperial County, Title 9, Land Use Ordinance and CEQA mitigation measures and therefore complies with both State and local laws and ordinance. Pursuant to CEQA, the County has prepared an EIR for the Project, which EIR analyzes the Project's compliance and consistency with other federal, state, and local laws and ordinances regulating the

environment. Substantial evidence supports the conclusions in the EIR that the Project complies with said environmental laws. The County is aware of no other laws or ordinances that might be implicated by the Project, and thus the finds that the proposed use does not violate any other law or ordinance.

G. The proposed use is not granting a special privilege. (Imperial County Code § 90203.09.G)

The proposed use is considered a "Solid Waste Facility", which is a permitted use subject to approval of a Conditional Use Permit under Land Use Ordinance, Section 92102.00 *et. seq.* and the water well would be an accessory use to said facility, subject to a Conditional Use Permit. No special privileges are being or will be granted.

SECTION 3. Approval of the Project should be conditioned upon the terms and conditions set forth in the Agreement for Conditional Use Permit #21-0002 attached hereto and incorporated herein by this reference.

NOW, THEREFORE, based on the above findings, the Imperial County Planning Commission **DOES HEREBY RECOMMEND APPROVAL** of Conditional Use Permit #21-0002 to the Board of Supervisors, subject to the attached Conditions of Approval.

Rudy Schaffner, Chairperson
Imperial County Planning Commission

I hereby certify that the preceding resolution was taken by the Planning Commission at a meeting conducted on **December 16, 2021** by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Jim Minnick, Director of Planning & Development Services
Secretary to the Planning Commission

S:\AllUsers\APN\019\100\004\GPA18-0004; ZC18-0005; CUP18-0025\PC\GPA18-0004 CUP21-0002 Resolution.docx

When Recorded Return To:

Imperial County Planning & Dev. Services Dept.
801 Main Street
El Centro, California 92243

AGREEMENT FOR CONDITIONAL USE PERMIT (CUP) #21-0002
(WATERWELL)
(APN 019-100-004-000)
Approved at Planning Commission .....)

This Agreement is made and entered into on this _____ day of _____20__, by and between Desert Valley Company, (hereinafter referred to as "Permittee"), and the County of Imperial, a political subdivision of the State of California, (hereinafter referred to as "County").

RECITALS

WHEREAS, pursuant to the application, for Conditional Use Permit #21-0002, which is part of the Desert Valley Company (DVCM) Expansion (Cell 4) Project, for which a Final Environmental Impact Report (SCH #2019120605) was prepared, the County of Imperial, hereby issues to Desert Valley Company, and the Permittee hereby accepts, this Conditional Use Permit #21-0002 for dust control and construction (i.e. soil compaction) during installation of Cell 4, closure of existing Cell 3, and for the subsequent operation of Cell 4, subject to all of the terms and conditions specified herein; and

WHEREAS, Permittee is the owner, lessee or successor-in-interest in certain land in Imperial County known as Section 33, Township 12 South, Range 11 East, identified as the Assessor's Parcel Number 019-100-004-001.

WHEREAS, Conditional Use Permit #21-0002 (part of Final Environmental Impact Report SCH #2019120605) was heard by the Imperial County Environmental Evaluation Committee for the expansion of the existing monofill facility by adding a

new waste disposal cell (Cell 4) and associated facilities (under CUP #18-0025) as well as adding a new on-site water well (CUP#21-0002). The total water demand for the project will be 75 to 100 acre-feet during the year that Cell 4a is constructed and 30 to 40 acre-feet during the six-month period while Cell 3 is being closed. The on-going operational water use for dust control and cell operation will be up to 11 acre-feet of water per year. The on-going long-term water demand, once cell construction and closure construction are completed, will be up to 11.12 acre-feet/year. The FEIR distributed for public review. All public comments were considered and included in preparing the conditions to Conditional Use Permit #21-0002.

WHEREAS, Permittee has applied to the County for Conditional Use Permit #21-0002 for 11 acre-feet of water per year.

WHEREAS, the County, after a noticed public hearing, agreed to issue Conditional Use Permit #21-0002 to Permittee, and/or their successor-in-interest subject to the following conditions:

(G) GENERAL CONDITIONS:

*The "GENERAL CONDITIONS" are shown by the letter **"G"**. These conditions are conditions that are either routinely and commonly included in all Conditional Use permits as "standardized" conditions and/or are conditions that the Imperial County Planning Commission has established as a requirement on all CUP's for consistent application and enforcement. The Permittee is advised that the General Conditions are as applicable as the SITE SPECIFIC conditions!*

G-1 GENERAL LAWS:

Permittee shall obtain, comply with, and maintain all applicable County, State, and federal laws, rules, regulations, ordinances, and/or standards as they may pertain to this project whether specified herein or not (including but not limited to Division 21 and 22 of the Imperial County Land Use Ordinance). **G-2 PERMITS/LICENSE:**

Permittee shall obtain any and all permits, licenses and/or approvals, for the construction and/or operation of this project. This shall include, but shall not be limited to, County comply with County Division of Environmental Health Services (EHS), Planning and Development Services Department, Fire/Office of Emergency Services (OES), Colorado River Board of California, RWQCB and Public Works

Department. Permittee shall likewise comply with all such permit requirements for the life of the project. Additionally, Permittee shall submit a copy of such additional permit and/or licenses to the Planning and Development Services Department within thirty (30) days of receipt, including amendments or alternatives thereto, if requested.

G-3 RECORDATION:

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

G-4 CONDITION PRIORITY:

This project shall be constructed and operated as described in the Conditional Use Permit application, the Environmental Assessment, the project description, and as specified in these conditions. Where a conflict occurs, the Conditional Use Permit conditions shall govern and take precedence.

G-5 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, attorney's 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 or not there is concurrent, passive or active negligence on the part of the County, its agents, officers, attorneys, or employees.

G-6 RIGHT OF ENTRY:

The County reserves the right to enter the premises at any time, announced or unannounced, in order to make the appropriate inspection(s) and to determine if the condition(s) of this permit are complied with. Access to authorized enforcement agency personnel shall not be denied.

G-7 SEVERABILITY:

Should any condition(s) of this permit be determined by a Court or other agency with proper jurisdiction to be invalid for any reason, such determination shall not invalidate the remaining provision(s) of this permit.

G-8 PROVISION TO RUN WITH LAND:

The provisions of this project are to run with the land/project and shall bind the current and future owner(s) successor(s)-in-interest; assignee(s) and/or transferee(s) of said project. Permittee shall not without prior notification to the Planning and Development Services Department assign, sell, or transfer, or grant control of project or any right or privilege therein. The Permittee shall provide a minimum of 60 days written notice prior to such proposed transfer becoming effective. The permitted use identified herein is limited for use upon this parcel described herein and may not be transferred to another parcel.

G-9 COMPLIANCE/REVOCATION:

Upon the determination by the Planning and Development Services Department that the project is or may not be in full compliance with any one or all of the conditions of this Conditional Use Permit, or upon the finding that the project is creating a nuisance as defined by law, the issue shall be brought immediately to the appropriate enforcement agency or to the Planning Commission for hearing to consider appropriate response including but not limited to the revocation of the CUP or to consider possible amendments to the CUP. The hearing shall be held upon due notice having been provided to the Permittee and to the public in accordance with established ordinance/policy.

G-10 TIME LIMIT:

Unless otherwise specified within the project specific conditions this project shall be limited to a maximum of (3) three years from the recordation date of the CUP. The CUP may be extended for successive three (3) year(s) by the Planning Director upon a finding by the Planning & Development Services Department that the project is in full and complete compliance with all conditions of the CUP and any applicable land use regulation(s) of the County of Imperial. Unless specified otherwise herein no conditional use permit shall be extended for more than four (4) consecutive periods. If an extension is necessary or requested beyond fifteen (15) years, Permittee shall file a written request with the Planning Director for a hearing before the Planning Commission. Such request shall include the appropriate extension fee. An extension shall not be granted if the project is in violation of any one or all of the conditions or if there is a history of non-compliance with the project conditions.

G-11 COSTS:

Permittee shall pay any and all amounts determined by the County to defray any and all cost(s) for the review of reports, field investigations, monitoring, and other activities directly related to the enforcement/monitoring for compliance of this Conditional Use Permit, County Ordinance or any other applicable law. Any billing against this project, now or in the future, by the Planning and Development Services Department or any County Department for costs incurred as a result of this Permit, shall be billed through the Planning and Development Services Department.

G-12 WATER AND SEWER:

Permittee shall provide water and sewer to Federal, State and County standards. Water and sewer systems shall be approved by the Environmental Health Services and the Planning and Development Services Department.

G-13 DEFINITIONS:

In the event of a dispute, the meaning(s) or intent of word(s) phrase(s) and/or conditions or sections herein shall be determined by the Planning Commission of Imperial County. Their determination shall be final unless an appeal is made to the Board of Supervisors 10 days from the date of their decision.

G-14 SPECIFICITY:

The issuance of this permit does not authorize the Permittee to construct or operate this project in violation of any state, federal, local law nor beyond the specified boundaries of the project as shown the application/project 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 modification to this project.

G-15 HEALTH HAZARD:

If the County Health Officer determines that a significant health hazard exists to the public, the County 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 the subject operations. However, within 45 days of any such suspension of operations, the measures imposed by the County Health Officer must be submitted to the Planning Commission for review, and nothing shall prohibit Permittee from requesting a special Commission meeting and Permittee bears all costs.

G-16 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. Current Permittee shall inform the County Planning and Development Services Department in writing at least 60 days prior to any such transfer. Failure of a notice of change of ownership or change of operator shall be grounds for the immediate revocation of the CUP. 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. Failure to provide timely notice of transfer by Permittee shall forfeit current surety.

G-17 COMMENCEMENT OF WORK:

No commencement of work until all conditions pursuant to the CUP has been satisfied. Evidence that all conditions pursuant to the CUP have been satisfied shall be provided to the Planning Director prior to commencement.

(TOTAL "G" CONDITIONS are 17)

This space intentionally left blank.

(S) SPECIFIC PROJECT CONDITIONS:

PROJECT DESCRIPTION

The Permittee intends to expand the existing Desert Valley Company Monofill with the construction of a new waste disposal cell (Cell 4) and associated facilities (under CUP #18-0025) and continue the current operations of the permitted Class II Monofill Facility. They are also proposing a new water well for use during construction and operation of the expansion (Cell 4) and for the capping and closure of the existing Cell 3.

The expansion would increase the disposal capacity of the monofill by 2.6 million cubic yards and extend its operational life to approximately 2080.

The previous CUP #05-0020 was to add a third Cell to the existing Monofill facility and to request more water for dust mitigation. CUP #02-0003 allowed the Permittee to continue to operate the Class II Monofill facility, limiting it to only accepting non-hazardous waste streams generated by the Permittee's own Imperial County geothermal plants with no out-of-county waste allowed. The existing facility is comprised now of three Cells but will be close to reaching full capacity, which is why the applicant has requested to expand the existing facility to add a new waste disposal cell (Cell 4) and a new water well.

The water well shall be located within the property limits specified under this CUP and shall comply with General Conditions.

S-1 WATER USAGE:

Groundwater use at the DVC facility has ranged from 3.58 to 8.02 AFY, as discussed in **Section 4.4.3** of the FEIR. To provide a conservative estimate, the Water Supply Assessment, assumed that water use for dust control and operation of Cells 4A and 4B could be twice the median value of water used over the past seven (7) years, or about 11 AFY (5.45 AFY x 2 ≈ 11 AFY).

For construction of Cell 4A, over an approximate 12-month period, it is estimated that the total water demand to construct may range from 25 million to 32 million gallons, or approximately 75-100 acre-feet.

The average daily water demands are equivalent to pumping rates of about 90 gallons per minute (gpm) to 105 gpm. The maximum daily water demands are equivalent to pumping rates of about 105 gpm to 125 gpm.

S–2 OFF-SITE WATER SALES:

The water shall be used for on-site use(s) only. Water from the wells shall **not** be used, sold, nor given to any individuals or entities and used for purposes other than as identified in the project description.

The groundwater from the well shall not be sold, exported, or transported off-site.

S–3 WATER WELL MONITORING:

A flow meter shall be installed and sealed by a California-Licensed Water Well Drilling Contractor and the name and contractor's licensed numbers must be submitted with a drilling and logging report every six (6) months to the Department of Public Works and the Planning and Development Services Department indicating the amount of water extracted from the well within ninety (90) days of drilling completion. This is to be made part of the annual report required under CUP #18-0025.

The water well shall be drilled by a California-licensed water well drilling contractor and the name and Contractor's licensed numbers must be submitted to the Planning and Development Services Department prior to the well being drilled.

The Permittee shall file an annual report on the water used during the previous year to the Planning and Public Works Department. This report shall coincide or may be part of the Annual Report required under this CUP.

A photograph (dated and signed) of the flow meter readings shall be included in the report. The report shall be received within thirty (30) days following the date of the issuance of the Conditional Use Permit and the well is spudded. In the event of a flow meter failure, the Permittee shall be required to cease the water well operation and notify the Planning and Development Services Department. The Permittee may be allowed to temporarily substitute the flow meter for an alternative measuring device with the approval of the Planning and Development Services Department.

If the well is found to be potable under California Standards, the same conditions shall apply.

S–4 WELL REPLACEMENT:

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 Water Well Driller on the construction of any water well replaced. Copies of this report shall be submitted to Environmental Health Services, Planning and Development Services Department, and Public Works Department 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 water;
6. Methods for preventing contaminated waters from one aquifer to mix with another aquifer;
7. Name of person who constructed the well.

S-5 NO SLANT DRILLING:

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

S-6 WELL ABANDONMENT:

Should the water well be "abandoned" at any time for more than twenty four (24) consecutive months, 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 follow :)

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 WELL REMOVAL:

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 and Development Services Department within thirty (30) days following the destruction of the water well.

S-8 WELL REGISTRATION:

The water well shall be registered with the Planning and Development Services Department to comply with the existing Groundwater Ordinance. This Ordinance was enacted by the Board of Supervisors on for the purpose of preserving and managing groundwater resources in Imperial County.

S-9 WATER ENTITLEMENT:

The groundwater at the subject project site has been determined to be Colorado River Water. Prior to any well construction, the Permittee must obtain a water entitlement or make arrangements to use another entity's water entitlement. Based on the proposed location of the new well, within the Imperial Irrigation District water service area and within the Lower Colorado Water Supply Project accounting surface area, subject water proposed to be extracted is entitled Colorado River water. As such, Permittee is not authorized for water extraction and shall not extract any groundwater without the Permittee first obtaining entitlement or a Water Supply Agreement from US Bureau of Reclamation (its authorized agents) or Imperial Irrigation District.

S-10 PERMITTING:

The Permittee shall obtain all required permits from the Planning and Development Services Department, Department of Public Works, Department of Environmental Health Services (EHS), Air Pollution Control District (APCD), Imperial Irrigation District (IID) and other applicable federal and state agency(s).

If the County determines that the use of the well is creating an adverse impact to the groundwater basin, the County may order the Permittee to cease use of the well or limit the use of the well as deemed appropriate.

S-11 ARCHAEOLOGICAL RESOURCES/HUMAN REMAINS (HSC 7051 & PRC 5097.98)

In the event that evidence of human remains is discovered during construction, construction activities within 200 feet of the discovery will be halted or diverted and the Imperial County Coroner will be notified (Section 7050.5 of the Health and Safety Code). If the Coroner determines that the remains are Native American, the Coroner will notify the NAHC, which will designate a most likely descendant (MLD) for the project (Section 5097.98 of the PRC). The designated MLD then has 48 hours from the time access to the property is granted to make recommendations concerning treatment of the remains (AB 2641). If the landowner does not agree with the recommendations of the MLD, the NAHC can mediate (Section 5097.94 of the PRC). If no agreement is reached, the landowner must rebury the remains where they will not be further disturbed (Section 5097.98 of the PRC). This will also include either recording the site with the NAHC or the appropriate Information Center; using an open space or conservation zoning designation or easement; or recording a document with the county in which the property is located (AB 2641).

(TOTAL "S" CONDITIONS are 11)

(End of 'S' Section)

Site Specific Conditions:

NOW THEREFORE, County hereby issues Conditional Use Permit #21-0002 and Permittee hereby accepts such permit upon the terms and conditions set forth herein.

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

Permittee	COUNTY OF IMPERIAL, a political Subdivision of the STATE OF CALIFORNIA
By_____ Representative of Desert Valley Company	By:_____ Jim Minnick, I. C. Planning Director
Dated_____	Dated_____

PERMITTEE'S NOTARIZATION

STATE OF CALIFORNIA

COUNTY OF IMPERIAL

On _____ before me, _____ a Notary Public in and for said County and State, personally appeared _____, personally known to me (or 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.

WITNESS my hand and official seal

Signature_____

_____

_____

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_____
Number of Pages_____Date of Document_____
Signer(s) Other Than Named Above_____

COUNTY NOTARIZATION

STATE OF CALIFORNIA

COUNTY OF IMPERIAL

On _____ before me, _____, a Notary Public in and for said County and State, personally appeared _____, personally known to me (or 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.

WITNESS my hand and official seal

Signature_____

_____

_____

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_____
Number of Pages_____Date of Document_____
Signer(s) Other Than Named Above_____

S:\AllUsers\APN\019\100\004\GPA18-0004; ZC18-0005; CUP18-0025\PC\GPA18-0004 CUP21-0002 Conditions of Approval.doc