



# BOARD AGENDA FACT SHEET

CLERK USE ONLY  
BOS ACTION

# \_\_\_\_\_

Planning & Development Services  
Department /Agency

April 7<sup>th</sup>, 2026  
Requested Board Date

**1. Request:**

Board Approval

**XX**

Information  
Only/Presentation  
Schedule Hearing  
Time: \_\_\_\_\_

Other (specify)  
\_\_\_\_\_

**11:00 a.m.**

**2. Requested Action:** *Type requested action below*

The Imperial County Planning & Development Services Department respectfully requests the Board of Supervisors conduct a public hearing to consider Appeal #25-0004 and Appeal #25-0005 of the December 18, 2025, Planning Commission's decision on Lot Merger #00191 submitted by Imperial Valley Computer Manufacturing, LLC.

- A. Consider Approval or Denial of Appeal #25-0004 (Imperial Valley Computer Manufacturing); and,
- B. Consider Approval or Denial of Appeal #25-0005 (City of Imperial); and,
- C. Consider Approval or Denial of Lot Merger #00191.

3. Cost \$ N/A Source: N/A

4. If approval of Contract, reviewed/approved by County Counsel on: NO

By: \_\_\_\_\_ Action Request # \_\_\_\_\_  
*Assigned by County Counsel's Office*

5. If approval of position allocation change, approved by Human Resources on: N/A

By: N/A

6. Electronic copy submittal date: March 10<sup>th</sup>, 2026 By: Valerie Grijalva, Office Supervisor II

*Valerie Grijalva*  
Department Head/Agency Representative

**INSTRUCTIONS:** Back-up must be submitted **15 BUSINESS days** prior to requested date (Please note a Holiday counts as a Business day.) Back-up submitted must contain an Original and 2 copies. Copies must be submitted to the County Executive Office double sided and three (3) hole punched. Back-up must be submitted in a PDF format to [vanessasalcido@co.imperial.ca.us](mailto:vanessasalcido@co.imperial.ca.us) and [gracielaalvarez@co.imperial.ca.us](mailto:gracielaalvarez@co.imperial.ca.us)

**CEO/CLERK USE ONLY:**

**DATE STAMP**

BOARD DATE: \_\_\_\_\_

Action \_\_\_\_\_ Filing \_\_\_\_\_

Consent \_\_\_\_\_ Presentation \_\_\_\_\_

Hearing \_\_\_\_\_ CEO Approval \_\_\_\_\_

Other (specify) \_\_\_\_\_

\_\_\_\_\_  
CEO

\_\_\_\_\_  
Date



# Imperial County Planning & Development Services Planning / Building

April 7, 2026

**Jim Minnick**  
DIRECTOR

**TO:** Board of Supervisors

**FROM:** Jim Minnick, Director of Planning & Development Services M/O \_\_\_\_\_

**SUBJECT: APPEAL #25-0004 & APPEAL #25-0005 OF THE DECEMBER 18, 2025, PLANNING COMMISSION'S DECISION ON LOT MERGER #00191 SUBMITTED BY IMPERIAL VALLEY COMPUTER MANUFACTURING, LLC**

Dear Board Members:

**REQUESTED ACTION:**

The Imperial County Planning & Development Services Department respectfully requests the Board of Supervisors conduct a public hearing to consider Appeal #25-0004 and Appeal #25-0005 of the December 18, 2025, Planning Commission's decision on Lot Merger #00191 submitted by Imperial Valley Computer Manufacturing, LLC.

- A. Consider Approval or Denial of Appeal #25-0004 (Imperial Valley Computer Manufacturing); and,
- B. Consider Approval or Denial of Appeal #25-0005 (City of Imperial); and,
- C. Consider Approval or Denial of Lot Merger #00191.

**PLANNING COMMISSION:**

The proposed project was presented and heard by the Imperial County Planning Commission on December 18, 2025. The motion to approve Lot Merger #00191 failed by a vote of 5-2, as it did not achieve the required six (6) vote for approval on a ten (10) member commission. The subsequent motion to "table" until workshop(s) has taken place with the Developer, the City of Imperial, the City of El Centro and the Community passed by a vote of 7-0. The applicant filed an appeal of the Imperial County Planning Commission's decision in the attached letter dated December 18, 2025. The City of Imperial objects to the appeal filed by the applicant and filed a protected appeal of the Imperial County Planning Commission's decision in the attached letter dated December 26, 2025.

**BACKGROUND:**

The Applicant proposes a Lot Merger to consolidate five (5) individual parcels and Leimgruber Road into a single  $\approx \pm 75.39$ -acre site for the future development of a Data Center Complex. The project would include ancillary infrastructure such as an electrical substation, an on-site Battery Energy Storage System to support power backup, and emergency power generation through natural gas backup generators. The site is situated on previously disturbed industrial and agricultural land.

Legal and physical access to the newly merged parcel would be provided via Aten Road and Clark Road. The Applicant intends to enter into a contract with a local municipality to supply reclaimed water from the municipality's water treatment facility via a dedicated conveyance system. The reclaimed water would be piped and delivered to the project site for additional remediation, as required by the State of California and Imperial County Environmental Health Services. All wastewater generated by the facility would be treated on-site through a proposed wastewater treatment system. Once treatment capacity is reached, the treated effluent would be conveyed to the Imperial Irrigation District's Central Drain located just south of the proposed project site.

**COUNTY ORDINANCE:**

Upon approval of a Road Abandonment application for Leimgruber Road by the Imperial County Board of Supervisors, Lot Merger #00191 will be consistent with the provisions of the Imperial County Land Use Ordinance (Title 9), Division 8 (Subdivision Ordinance), Section 90808.00, "Lot Mergers."

**LAND USE ANALYSIS:**

Pursuant to the Imperial County General Plan, the proposed project site is designated as "Urban Area." The zoning designations of the subject parcels are M-1-U (Light Industrial, Urban Overlay), M-2-U (Medium Industrial, Urban Overlay), and A-2-U (General Agricultural, Urban Overlay) in accordance with Zoning Map #1 of the Imperial County Land Use Ordinance (Title 9).

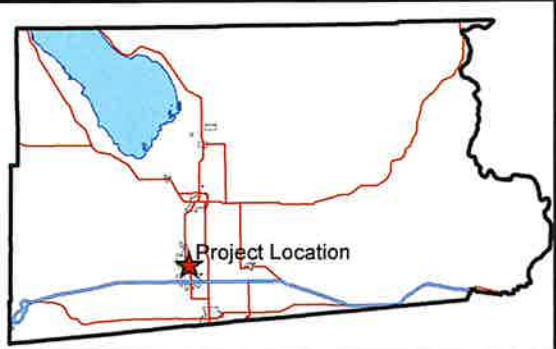
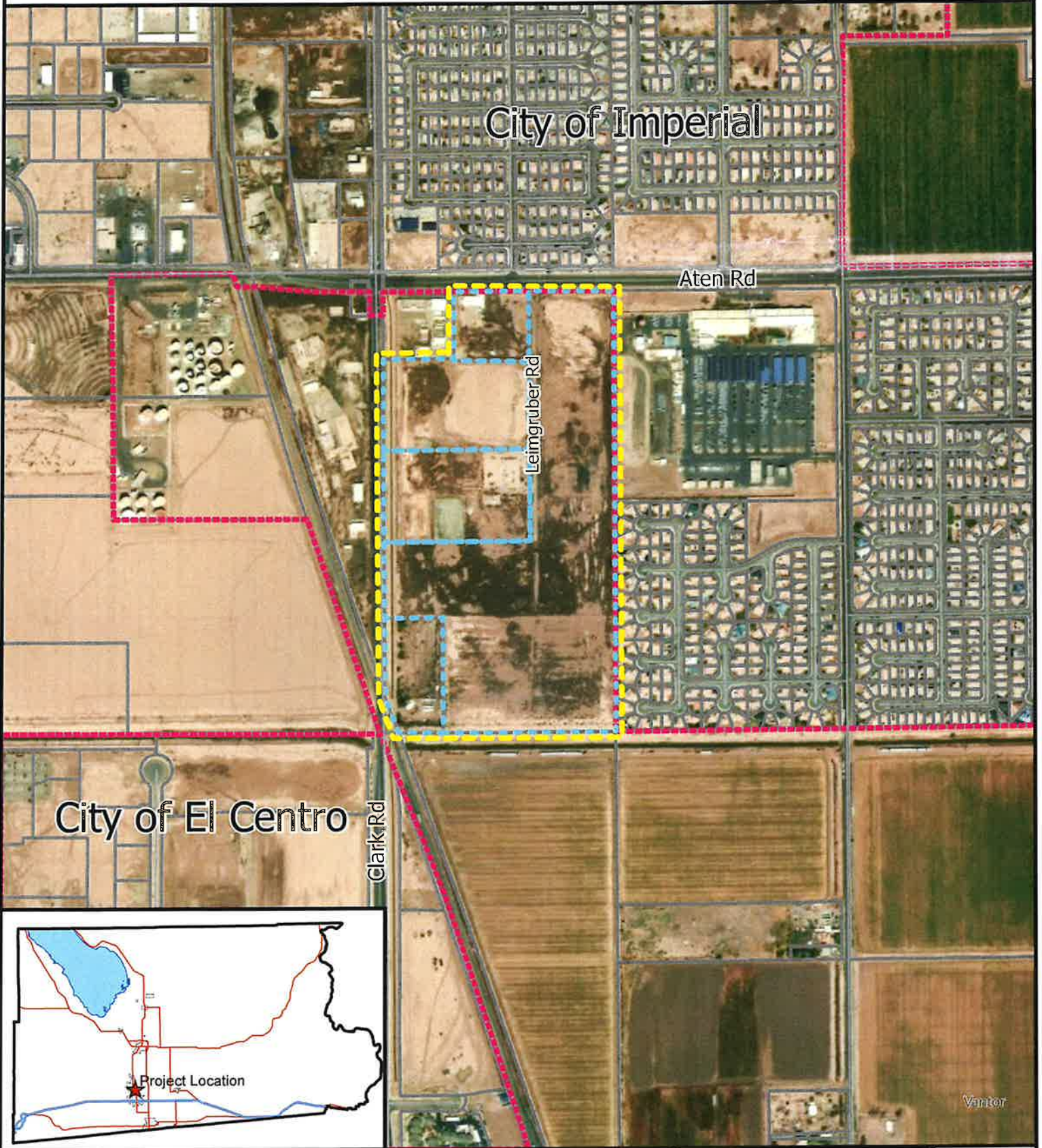
The proposed action under Lot Merger #00191 anticipates the combination of five (5) parcels and Leimgruber Road for the future development of a Data Center Complex within a designated Urban Area of the County of Imperial. The proposed Lot Merger would create a single  $\approx$  +/- 75.39-acre parcel.

Attachment A.	Vicinity Map
Attachment B.	Board Resolution
Attachment C.	Conditions of Approval
Attachment D.	Appeal letter – Imperial Valley Computer Manufacturing, LLC
Attachment E.	Appeal letter – City of Imperial
Attachment F.	CEO Public Announcement
Attachment G.	PC Original Package

cc: Dr. Kathleen Lang, CEO  
Geoff Holbrook, County Counsel  
Jim Minnick, Director Planning and Development Services  
Michael Abraham, AICP, ICPDS Assistant Director  
Files: 10.112

**ATTACHMENT "A" VICINITY MAP**

# PROJECT LOCATION MAP



**IMPERIAL VALLEY COMPUTER  
MANUFACTURING, LLC  
MERG #00191  
APN(S): 044-220-007, -042, -044,  
-045 & -046**

- Proposed Lot Merger
- Subject Parcels
- Imperial / El Centro City Limits
- Parcels
- Centerline



**ATTACHMENT "B" BOARD  
RESOLUTION**

## RESOLUTION NO.

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL, CALIFORNIA, APPROVING/DENYING APPEAL #25-0004, APPROVING/DENYING APPEAL #25-0005 AND APPROVING/DENYING LOT MERGER #00191, WITH CONDITIONS OF APPROVAL, FOR IMPERIAL VALLEY COMPUTER MANUFACTURING LLC.**

**WHEREAS**, Imperial Valley Computer Manufacturing, LLC submitted an application for Lot Merger #00191 for a comprehensive Lot Merger to consolidate five (5) individual parcels and Leimgruber Road into a single  $\approx$ 75.39-acre site for the future construction and development of a Data Center Complex; and,

**WHEREAS**, the project is exempt from the California Environmental Quality Act (CEQA), per Government Code 15305; and,

**WHEREAS**, the Board of Supervisors of the County of Imperial has the responsibility of approvals and certifications; and,

**WHEREAS**, public notice of said application has been given, and the Board of Supervisors 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 March 24<sup>th</sup>, 2026; and,

**NOW, THEREFORE**, the Board of Supervisors of the County of Imperial **DOES HEREBY RESOLVE** as follows:

**SECTION 1.** The Board of Supervisors has considered Appeal #25-0004 and the proposed MERG #00191 prior to approval/denial. The Board of Supervisors of the County of Imperial finds and determines that the Appeal and Lot Merger is adequately prepared in accordance with the requirements of the Imperial County General Plan, Land Use Ordinance, Subdivision Map Act, and California Environmental Quality Act (which assesses 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 regulations, the following findings for approving or denying the Lot Merger #00191 have been made as follows:

**A. Are the lots or parcels contiguous?**

Upon the tentative approval of the Road Abandonment application for Leimgruber Road, the five (5) subject parcels will become contiguous, and the proposed merger with approved conditions will be consistent with the Subdivision Map Act as well as the County of Imperial Land Use Ordinance, Title 9, Division 8 (Subdivision Ordinance), Section 90808.00.

**B. The lot merger conforms to State Law and County Ordinance.**

The zoning designations of the subject parcels under Lot Merger #00191 are M-1-U (Light Industrial, Urban Overlay), M-2-U (Medium Industrial, Urban Overlay), and A-2-U (General Agricultural, Urban Overlay) in accordance with Zoning Map #1 of the Imperial County Land Use Ordinance (Title 9).

The proposed action under Lot Merger #00191 anticipates the combination of five (5) parcels and Leimgruber Road within a designated Urban Area of the County of Imperial. The proposed Lot Merger would create a single  $\approx$  +/- 75.39-acre parcel.

In accordance with the provisions established in Chapter 1 of Division 5, Section 90501.01 (Single Base Zoning Area) of the Imperial County Land Use Ordinance, each lot or parcel of land within the unincorporated areas of Imperial County must be classified under a single base zoning designation. EXCEPTION Parcels greater than 40 acres in net area may be divided by zoning district boundaries (A-2/A-3 Traffic corridor). Parcels less than 40 acres net and currently divided by a zoning boundary shall have the larger of the current designation apply to the entire parcel. Where a zoning map shows two zones on the same parcel the parcel shall have the larger of the two zones applicable to the entire parcel regardless of the map depiction. Unless identified by a Community/ Urban or Specific Plan Area.

Upon approval of Lot Merger #00191, the merged lot will retain the existing zoning district boundaries of M-1-U (Light Industrial, Urban Overlay), M-2-U (Medium Industrial, Urban Overlay), and A-2-U (General Agricultural, Urban Overlay).

**C. The lot merger is between lots or parcels that were created by a parcel or tract map consistent with the Subdivision Map Act and County Ordinance in effect at the time they were created.**

Upon the tentative approval of the Road Abandonment application for Leimgruber Road, the Lot Merger will be consistent with the Subdivision Map Act and County Ordinance.

**D. The lots or parcels are not separated or affected by any easement, right-of-way, road, alley or canal (including public utility easements).**

Upon the approval of the Road Abandonment application for Leimgruber Road, the subject five (5) parcels will be contiguous, and the proposed merger will be consistent with the Subdivision Map Act and the County of Imperial Land Use Ordinance Title 9, Division 8 (Subdivision Ordinance), Section 90808.00, and will not result in any potential project-related or cumulative easement, right-of-way, road, alley, or canal impacts.

**E. The parcels as merged will not be deprived access as a result of the merger.**

The proposed project will not result in depriving access to any easement, right-of-way, road, alley, or canal (including private easements). The purpose of this lot merger is to consolidate five (5) individual parcels and Leimgruber Road into a single  $\approx \pm 75.39$ -acre site. Legal and physical access to the proposed merged parcel would be via Clark and Aten Roads.

**F. Access to the adjoining parcels will not be restricted by the merger.**

Access to the adjoining lots will not be restricted by the merger. Should Lot Merger #00191 be approved, legal and physical access to the proposed merged parcel would be via Clark and Aten Roads.

**G. The parcels, as merged, will not conflict with the location of any existing structures on the property.**

The lot merger would not conflict with the location of any existing structures on the property. The proposed project site is predominantly vacant, with only an existing unoccupied industrial building that fronts and has direct access along Aten Road.

**H. No new lots are created through the merger.**

The lot merger would not create any new parcels. Rather, the five (5) existing parcels would be combined to form one larger parcel.

**NOW, THEREFORE**, based on the above findings, the Board of Supervisors of the County of Imperial **DOES HEREBY APPROVES/DENIES** Appeal #25-0004, **APPROVES/DENIES** Appeal #25-0005 and **APPROVES/DENIES** Lot Merger #00191, with the Conditions of Approval.

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
**PEGGY PRICE, Chairperson**  
Imperial County Board of Supervisors

ATTEST: \_\_\_\_\_  
**CYNTHIA MEDINA, Clerk of the**  
**Board of Supervisors, County of**  
Imperial, State of California

**ATTACHMENT "C" CONDITIONS OF  
APPROVAL**

# CONDITIONS OF APPROVAL

Board of Supervisors

## LOT MERGER (MERG) #00191

APN(s) # 044-220-007, 044-220-042,  
044-220-044, 044-220-045 and 044-220-046

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### **NOTICE TO APPLICANT!**

*The above-referenced Lot Merger, upon approval by the County, shall be subject to all of the following conditions, which may include modification or rescission, in whole or in part, by the PLANNING DIRECTOR, PLANNING COMMISSION and/or BOARD OF SUPERVISORS from the conditions recommended by staff. In the event any conditions are deferred the APPLICANT or any subsequent owner(s), shall comply with all of the CONDITIONS specified herein, whether at the time of recordation of the Map/Legal Descriptions or prior to any development permits. It is the obligation of the property owner (current or future) to comply with these conditions; hereinafter the term "applicant" shall mean the current and future owners. If approved, this project having been reviewed for compliance with the General Plan, the Subdivision Map Act and County Land Use Ordinance, the applicant shall comply with all of the requirements of said documents whether specified herein or not.*

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### **GENERAL CONDITIONS:**

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[General Conditions may be either advisory or mandatory depending on the condition. These conditions appear on all lot mergers as generic conditions; however they are as important as the Site Specific Conditions. The Planning Director established these conditions to be consistent, to be informative, and to cover a broad range of generic requirements and notices. The term applicant(s) shall mean the current and future owner(s) of record.]

**Unless expressly deferred in these conditions all conditions are to be satisfied prior to recordation of the lot merger.**

1. The applicant shall pay any and all amounts as determined by the County to defray all costs for the review of reports, field investigations, or other activities related to compliance with this permit/approval, County Ordinances, and/or any other laws that apply to this Lot Merger.
2. The applicant shall comply with all local, state and/or federal laws, rules, regulations, and/or standards as they may pertain to this project, whether specified herein or not.
3. As a condition of this Lot Merger, the applicant 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 lot merger 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 applicant, arising out of or in connection with the approval of this Lot Merger, whether or not there is concurrent, passive or active negligence on the part of the County, its agents, officers, attorneys, or employees.

4. Each parcel created or affected by this merger shall about a maintained road and/or have legal and physical access to a public road before this Lot Merger is recorded.
5. Applicant 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 & Development Services Department upon further development.
6. The applicant shall comply with all County Fire Department regulations, rules and standards and shall meet all Fire Department requirements necessary to attain compliance upon further development. Any physical improvements required by the Fire Department shall be inspected and approved prior to a building permit being issued by the Planning & Development Services Building Department.
7. All applicable plans, reports, and studies shall be reviewed and approved by the respective responsible agencies when further development occurs for constructing or installing any site improvements and the installation of future improvements shall be reviewed, inspected, and approved by the respective responsible agency.
8. Applicant shall provide a full legal description acceptable to the Planning & Development Services Department, for review and approval by the County Department of Public Works. The legal description shall be prepared, signed and stamped along with closure sheets by a California Licensed Land Surveyor or a California Registered Civil Engineer licensed to practice in the category of work performed. The legal description shall be typed on plain bond paper (8 ½" x11"). Letterhead is not acceptable.
9. Applicant shall obtain a **Tax Certificate** from the Tax Collector.
10. Applicant shall pay all applicable fees for the recordation of the **Certificate of Compliance and the Tax Certificate**.

#### **SITE SPECIFIC CONDITIONS:**

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1. The recordation of Lot Merger #00191 shall be contingent upon the approval of the Leimgruber Road Abandonment.<sup>1&2</sup>
2. Utility easements that if left in place would divide (separate) the merged parcel would need to be removed or relocated to eliminate the divide prior to recordation of the Lot Merger #00191.

3. Prior to recordation of the Lot Merger #00191, the applicant shall provide evidence that all five (5) parcels have been deeded under the same ownership.<sup>1</sup>
4. Each parcel affected by this lot line adjustment shall abut a maintained road and/or have legal and physical access to a public road.<sup>2</sup>
5. The applicant shall provide an Irrevocable Offer of Dedication (IOD) or dedicate the required portion for sufficient right of way for future development of Clark Rd, being classified as Major Collector - Collector with four (4) lanes, requiring eighty-four (84) feet of right of way, being forty-two (42) feet from the existing centerline. It is required that sufficient right of way be provided to meet this road classification. (As directed by Imperial County Board of Supervisors per Minute Order #6 dated 11/22/1994 per the Imperial County Circulation Element Plan of the General Plan).<sup>2</sup>
6. Provide a Lot Merger legal description and plat prepared by a California-licensed Land Surveyor or Civil Engineer and submit to the Department of Public Works, for review and recordation. The Engineer must be licensed in the category required by the California Business & Professions Code.<sup>2</sup>
7. Provide tax certificate from the Tax Collector's Office prior to recordation of the Lot Merger.
8. The recordation of the lot merger shall be subject to the recordation of deeds of land exchange for all continuous parcels to be held by the same owner.<sup>2</sup>

1 - Imperial County Planning & Development Services

2 - Imperial County Department of Public Works comment letter dated December 3, 2025

**ATTACHMENT “D” APPEAL LETTER**  
**-Imperial Valley Computer Manufacturing LLC**

**IMPERIAL VALLEY COMPUTER MANUFACTURING LLC**

16400 Pacific Coast Highway, Suite 212

Huntington Beach, CA 92649

Phone: (562) 901-0199

Fax: (562) 249-6910

Email: Sebastian@RucciLaw.com

**RECEIVED**

**DEC 19 2025**

**IMPERIAL COUNTY  
PLANNING & DEVELOPMENT SERVICES**

December 18, 2025

To: Planning Director

Attn: Chairman John Hawk & Mr. Jim Minnick

County of Imperial

Address: 801 Main Street

El Centro, CA 92243

**RE: NOTICE OF APPEAL**

Project Name: Imperial Valley Computer Manufacturing, LLC- Lot Merger (MERG) #00191

Property Address: 044-220-044, 044-220-045, 044-220-007, 044-022-046, 044-220-042

Decision Date: 12/18/2025

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Dear Chairman John Hawk & Mr. Jim Minnick,

This letter serves as a formal appeal of the Planning Commission's decision dated December 18, 2025 regarding the proposed lot merger for the above-referenced parcels. (§ 90101.05)

**GROUND'S FOR APPEAL**

The "Lot Merger Initiated by Property Owner" procedure set forth in Imperial County Zoning Code § 90808.03 requires findings that: the lots are contiguous; (B) the merger conforms to state and county law; (C) the lots were legally created; (D) no right-of-way is affected; (E) access is not impaired; (F) access to adjoining lots is not restricted; (G) no conflict with existing structures is created; and (H) no new lot is created.

Section 90808.08 expressly authorizes approval with conditions, providing that "[u]pon compliance with all conditions of approval, the Planning Director shall record a Lot Merger Certificate of Compliance."

The applicant accepts as a condition of approval—that all parcels will be placed into common ownership prior to recordation of the lot merger. With this condition, the merger satisfies every requirement of § 90808.03. The lots are contiguous, legally created, create no new parcels, impair no access, and conflict with no structures. The merger fully complies with both state and

county law. The applicant agrees, as a condition of approval, that Leimgruber Road will be vacated prior to recordation of the lot merger. Leimgruber Road has long been unused; the land on both sides of the roadway is vacant. Accordingly, the merger will not affect any functional right-of-way.

The applicant fully intends to meet with the residents in formal and informal settings. However, a compliant lot merger, which erases lines and is recommended for approval by staff, should be approved on its merits. Hence, we are appealing the planning commissions decision because we were compliant with the existing rules as written and as staff recommended.

Attached is the required appeal fee of \$ 1,000.00. I look forward to the hearing date regarding this matter.

Sincerely,



Sebastian Rucci

**ATTACHMENT “E” APPEAL LETTER**

**-City of Imperial**



December 26, 2025

VIA EMAIL ONLY

Cynthia Medina  
940 W. Main Street, Suite 209  
El Centro, CA 92243  
CynthiaMedina@co.imperial.ca.us

Jim Minnick  
Planning & Development Services Director  
940 W. Main Street  
El Centro, CA 92243  
jimminnick@co.imperial.ca.us

RECEIVED

DEC 29 2025

IMPERIAL COUNTY  
PLANNING & DEVELOPMENT SERVICES

Subject: **Objections** to the Appeal filed by the Imperial Valley Computer Manufacturing, LLC; **Protective Appeal** of Planning Commission Decision on December 18, 2025, Regarding Lot Merger No. 00191

Dear Ms. Medina and Mr. Minnick:

This firm represents the City of Imperial with regards to Data Center Project proposed to be located at the corner of Aten and Clark Roads and Lot Merger No. 00191 (the "Lot Merger"). The City is filing: (1) objections to the appeal filed by the Imperial Valley Computer Manufacturing, LLC ("IVCM" or "applicant" or "Developers") of Planning Commission Decision on December 18, 2025, regarding Lot Merger No. 00191; and, (2) Protective Appeal to the Planning Commission Decision on December 18, 2025, regarding Lot Merger No. 00191. As explained below, the Board of Supervisors is not legally authorized to consider IVCM's appeal. In the event, the Board proceeds to consider the illegal appeal, the City has also filed this protective appeal<sup>1</sup> to preserve its legal rights to challenge the Planning Commission's decision and have its appeal considered at the same time as the appeal of IVCM. I am authorized by the City to submit these objections and the appeal.

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<sup>1</sup> The filing of the protective appeal is not intended to waive the City's objections to the appeal filed by IVCM nor the City's argument as to why the appeal is legally improper.

1820 West Orangewood, Suite 105  
Orange, California 92868

alene@alenetaberlaw.com  
949.678.8464

**PART 1: OBJECTIONS TO THE APPEAL FILED BY LVCM**

The City of Imperial submits this Objection to any Board of Supervisors' appeal of the Data Center Lot Merger because review by the Supervisors that skips the Planning Commission is a direct violation of the Imperial County Ordinances.

In the paid for, public campaign against the City of Imperial and those citizens that bravely spoke out, data center Developers Sebastian Rucci and Hector Casas openly plead with the Board of Supervisors to uphold "the rule of law and applying the rules as written, without passion or prejudice." The City of Imperial agrees that the rule of law matters and hereby requests that the Board of Supervisors follow the County of Imperial ordinances and comply with the Planning Commission's demand to hold workshops, meet with the City of El Centro and the City of Imperial and then reschedule a Planning Commission meeting on the matter. Simply put, the Planning Commission has only continued the matter. No decision has been made and there is no ability for the Board of Supervisors to bypass their own legal process that requires a Planning Commission hearing.

Below is clarification on the City of Imperial's position on why this matter should not be heard by the Board of Supervisors before it is sent back for workshops and an actual determination, including findings, from the Planning Director or Planning Commission:

- (1) Developers wrote in a Desert Review article on December 22, 2025 "[T]he Commission performed its duty admirably, approving the merger by a 5–2 vote, despite significant public pressure."
  - a. The Planning Commission did not approve the Lot Merger. The Planning Commission passed the following motion "for the applicant to further discuss the project with the City of Imperial, City of El Centro, and the community before bringing the item back the Planning Commission for consideration." See County Press Release dated December 18, 2025.
  - b. No contact has been made with the City of Imperial consistent with the Planning Commission direction.
  - c. No additional Planning Commission meeting has been properly noticed or held.
- (2) The County of Imperial claims that "An appeal allows the next decision-making body to review the Planning Commission record, consider additional testimony as permitted by County procedures, and take action on the matter." (underline added).
  - a. County Ordinance 90102.03(G) strictly prohibits the Board of Supervisors from skipping the Planning Commission.

- i. The exact text is: "G. Lot mergers, (appealable to the planning commission and only then the board of supervisors);"
- b. County Ordinance 90103.09 states that if the Board of Supervisor hears an appeal and skips receiving a recommendation or decision from the Planning Commission, that decision is "null and void."
  - i. The exact text is "The board of supervisors shall not adopt or approve a plan, ordinance, variance, or land use permit without first receiving a report and/or recommendation from the planning commission. If the board does consider and approve such a project without first receiving input from the commission, the project approval shall be deemed null and void, unless the project is determined by the board to be an emergency, on a four-fifth's vote." (underline added).
- c. County Ordinance 90808.3 requires the Planning Director or the Planning Commission to make a decision on a Lot Merger and the CEQA finding associated with that matter. That has not happened as only direction and a demand to bring the matter back to the Planning Commission has occurred.
  - i. The exact text is "The Planning Director shall conduct a public hearing and approve or deny the lot merger based on consistency with the following determination if the application is categorically exempt under CEQA, or if further environmental documentation is required."
- d. County Ordinance 90101.11 makes it clear that the Planning Director or the Planning Commission is the original body required to make a decision on a Lot Merger and on CEQA. That has not happened.
  - i. The exact text is:

Permit/Project Type	Hearing Body		
	P/D	P/C	B/S
Lot Merger	x	x	x
Other	x	x	x

P/D = planning director - building official  
 P/C = planning commission  
 B/S = board of supervisors  
 (x) Represents the original hearing body on the specified project.

- (0) Represents the body that may hear a project on appeal from decision of the original hearing body.
- (-) Represents that there is no appeal hearing at this level.

- e. Under no circumstance can a lot merger be approved without a noticed public hearing.
  - i. The exact language is: "90808.04 - Hearing scheduling. The Department shall schedule the lot merger for Planning Director Action or Planning Commission by allowing adequate review time for staff and responsible departments/agencies, yet within time limits established by law. Under no circumstances shall a project be heard by the Planning Director without all required noticing having been provided."
  - ii. The exact language of 90808.05 is "The department shall strictly adhere to the following noticing requirement: Refer to Division 1, Chapter 4, Section 90104.03."
- f. The County should not have accepted the application or recommended approval because there are multiple owners and Leimgruber road separates these parcels.
  - i. The exact text of County Ordinance 90808.03 is "Under no condition[sic] shall the Department accept an incomplete application and commence processing it, unless and until all necessary information and supporting documentation is provided."
  - ii. The exact text of County Ordinance is: 90808.00 "Merger can only be considered where: "B. The lots or parcels cannot be separated by or affected by an easement, right-of-way, road, alley or canal (including public utility easements)." (underline added).
  - iii. The exact text of the state law prohibiting this owner initiated lot merger with different owners is Government Code section 66499.20.3 stating that the County may only "authorize the merger of contiguous parcels under common ownership."
- g. All parcels generally have only one zoning designation. This is referred to as the "single based zoning area" law. The County has adopted this law in 90501.01. When a Lot Merger takes place, it is typical that the zoning is all changed to the exact same zone. There are a few, limited exceptions to this law such as the new, affordable housing laws in California. An exception can only be allowed if a statute authorizes this. Sebastian Rucci quotes the County Ordinance, but leaves out the important element - the parenthetical that states "(A-2, A-3 Traffic corridor)". There is absolutely no authorization

to keep four different zones on this one parcel, under an owner initiated lot merger except for A-2, A-3 Traffic corridor. An exception does not apply to this property and the Lot Merger should not be approved with different zones. This also does not authorize exception to the many rules listed above.

- i. The exact County Ordinance 90501.01, including the parenthetical, reads (underline added):

Every lot or parcel of land or portion thereof within the unincorporated areas of the county of Imperial shall be classified in only one of the base zoning areas established in this section.

EXCEPTION: Parcels greater than forty (40) acres in net area may be divided by zoning district boundaries (A-2/A-3 Traffic corridor). Parcels less than forty (40) acres net and currently divided by a zoning boundary shall have the larger of the current designation apply to the entire parcel. Where a zoning map shows two zones on the same parcel the parcel shall have the larger of the two zones applicable to the entire parcel regardless of the map depiction. Unless identified by a community/urban or specific plan area.

- h. The most glaring illegal action associated with this data center process is based upon the actual zoning which is directly relevant to this Lot Merger. As set forth in all of the documents related to the data center, the zones all include "-U." Even on the Lot Merger application, Sebastian Rucci wrote that the parcels were zoned as follows:

Current Zone: A-2 U

Current Zone: M-1 N U

Current Zone: M2-U

The critical "U" zoning designation of this property means this property is directly zoned as "Urban Overlay." This means that it is so close to a City that it is actually required by the County Board of Supervisors Ordinances that the Planning Department work directly with the City of Imperial. Not only must they work with the City of Imperial, there is a strict requirement that the County staff attempt to apply the City of Imperial's code to these lots. The disingenuous comments from the developer that it is the City of Imperial's fault for building homes near an industrially zoned lot ignores the law and shifts blame in a manner that hurts the residents of the City of Imperial. The "U" zone requires the County, not the City's citizens to take

action. Ignoring the "U" zone does not honor what the developer is calling for, "Upholding the Rule of Law in Imperial County."

- i. The exact language of the Imperial County Code on the U Zone is: "90501.08 - "U" zone (urban areas). Land classified in the "U" zone shall also be classified in another zone. The "U" zone is therefore intended to be an overlay zone to designate areas that are within an urban area of an incorporated city or an urban area as designated on the county's general plan. With regard to urban areas around incorporated cities, it is the intent of the county of Imperial to adhere to the standards, rules, regulations and ordinances of said urban jurisdiction. To that end, the board of supervisors directs staff to work with their respective counterparts in the urban area and to use to the extent feasible and possible the urban area regulations in implementing any proposed land use action." (underline added)
  - ii. The Planning Commission reviewed the direct zoning of these parcels and appropriately required direct consultation with the City of Imperial and the City of El Centro. Ignoring this determination would not be consistent with the -U Zone as required under local and state law.
- i. The County made a public statement that the Board of Supervisors is required to remain neutral. But, Sebastian Rucci has continually provided his own arguments directly to the Board of Supervisors. These have taken the form of paid for advertisements, a letter to a Senator printed in the newspaper and sent directly to each Board of Supervisor member. If neutrality is preferred or a goal of this Board (which the City of Imperial accepts and respects), we request that you disclose any information submitted to you by the developer. We ask that you make each of those communications available for the citizens to see and comment on.
  - j. The County of Imperial, as all public agencies strive for, speaks about the importance of transparency. We hereby request that the County provide the following:
    - i. Clarity on the rationale for skipping the Planning Commission. You have appointed and entrusted this body to advise or make certain decisions. They volunteer their time and work to meet the goals you set forth for them in your Ordinances. If you choose to take their motion and clear action and circumvent their demand, please explain this to the public.
    - ii. Clarity on the data center process. We are aware that there may be an application for or the issuance of a grading permit, there is a Lot Merger application, there may be studies and approvals and reviews

by APCD, traffic studies, building permits etc. We ask that you outline and publish the entire data center process and what steps have been taken so far.

- iii. Clarity on past Lot Mergers. Please publish examples of other Owner Initiated Lot Mergers that have kept different zoning in past County approvals.
  - iv. Clarity on how the County has addressed the -U Zone: Please publish examples of how the County has addressed the -U Zone in the past and any efforts to address the -U Zone on these parcels at issue.
- k. The County of Imperial facilitates and implements the Airport Land Use Commission ("ALUC") procedures and Plan. ALUC specifically calls for a compatibility determination on this Lot Merger prior to any approval of the Board of Supervisors. (See ALUC Plan Pages 2-4). The data center project has not been reviewed by ALUC, in violation of the ordinances. As set forth in Appendix D, this property is located in Zone C and the powerlines and the substations are only potential compatible which restrictions. This project clearly requires findings and/or restrictions pursuant to the ALUC Plan.

The County's approach to consideration of this major project can only be described as veiled and inconsistent with past projects. That approach is inviting skepticism, suspicion and even outrage from stakeholders. With true transparency and open review of the project consistent with the County of Imperial rules and practice, an honest conversation with stakeholders can take place.

## **PART 2: PROTECTIVE APPEAL**

In accordance with County Ordinances 90101.10(B), 90102.04, and 90808.06 the City of Imperial hereby appeals the decision of the Planning Commission in the event that the Board of Supervisors considers the applicant's appeal. The information requested by County Ordinance 90101.04 is provided below:

1. The appellant is the City of Imperial.
2. The City of Imperial's address is 420 South Imperial Avenue, Imperial, CA 92251.
3. The appellant is represented by this law firm: Alene Taber Law, 1820 West Oranewood, Suite 105, Orange, California 92868.
4. The City is appealing the Planning Commission's decision made on December 18, 2025 regarding the Lot Merger No. 00191. Specifically, the Planning Commission voted in favor of requesting the applicant to further discuss the Data Center Project with the City of Imperial, City of El Centro, and the community before bringing the

item back the Planning Commission for consideration. The City is appealing the Planning Commission's decision because mere discussion will not resolve the fact that the merger violates the State Subdivision Map Act, the California Environmental Quality Act ("CEQA"), State Planning and Zoning laws, and the County Code and Ordinances. The specific facts, conditions, information, error, or other specifics to warrant appeal are stated in this firm's letter to the Planning Commission dated December 17, 2025, which is attached and incorporated herein as if fully set forth, and as set forth below.

The applicant's response to the City's concerns are unavailing and do not negate the Lot Merger's violations of state and local law.

a. The applicant still falsely certified that IVCM is the property owner on the merger applications. Property owner consents do not expunge this fact.

b. Common ownership is a pre-requisite to a lot merger, not an after the approval condition. Government Code § 66499.20.3 is clear that a county may only "**authorize** the merger of contiguous parcels under common ownership." (Emphasis added.) The Planning Commission's approval of the merger is its "authorization." The County Ordinance is also clear that common ownership is required at the time of the Planning Commission's approval, not afterwards. County Ordinance 90808.00 states that the "Merger can only be **considered** where: A. All the lots or parcels are contiguous." (Emphasis added.) County Ordinance 90808.03, states that the Planning Director (here the Planning Commission) "shall conduct a public hearing and **approve or deny** the lot merger based on consistency with...all the lots or parcels or contiguous." (Emphasis added.)

c. The lots to be merged are not contiguous because Leimgruber Road bisects the proposed Lot Merger. The Lot Merger would violate Government Code § 66499.20.3 that states a county may only "authorize the merger of **contiguous** parcels" and County Ordinance 90808.00 states that the "Merger can only be considered where: A. All the lots or parcels are **contiguous**." (Emphasis added.)

d. County Ordinance 90808.00 prohibits the consideration of a merger where the parcels are separated or affected by a road. County Ordinance 90808.03, states that the Planning Director (here the Planning Commission) "shall conduct a public hearing and **approve or deny** the lot merger based on consistency with...The lots or parcels are **not separated or affected by any** easement, right-of-way, **road**." (Emphasis added.)

e. State law prohibits the filing of a map with the County that does not have written consent of all parties that have any record title interest. (Gov. Code, § 66430.) Only the Board of Supervisors can provide written consent and that would be by vacating the road. The vacation of a road is a discretionary action wherein the Board of Supervisors must hear evidence and make legal findings. The applicant cannot promise the Board of Supervisors will exercise its discretion in any particular way; neither could the Planning Commission.

f. County Ordinance 90808.08 does not state as claimed by the applicant that conditions can be imposed to circumvent the above requirements. Further, this Ordinance section cannot be used to circumvent any of State requirements because the State Subdivision Map Act prohibits local ordinances that are not consistent with State law or conflict with the provisions of the Subdivision Map Act. (Gov. Code, §§ 66421, 66498.6 [local agencies do not have the option to disregard any state or federal laws, regulations, or policies.]

g. In order to avoid the legal requirement that a rezoning must be approved before the Lot Merger, the applicant inaccurately represented to the Planning Commission and public at the hearing that the merged parcels would retain their original zoning. This assertion contradicted the resolution the Planning Commission was being asked to adopt which states:

“In accordance with the provisions established in Chapter 1 of Division 5, Section 90501.01 (Single Base Zoning Area) of the Imperial County Land Use Ordinance, each lot or parcel of land within the unincorporated areas of Imperial County must be classified under a single base zoning designation. Upon approval of Lot Merger #00191, the predominant zoning designation of the project area, M-1-U (Light Industrial, Urban Overlay), will apply to the entire merged parcel.”

h. The merged parcels cannot retain their original zoning. County Ordinance 90501.01 requires that every parcel shall only be classified in only one base zone. The applicant's interpretation of County Ordinance 90501.01 is wrong – the exception to single zoning is limited to parcels greater than 40 acres that are zoned A-2/A-3 Traffic Corridor. Allowing every parcel over 40 acres to have multiple zones would essentially nullify the prohibition.

i. The Lot Merger does not conform to the County Zoning Ordinance. The proposed subdivision must be consistent with applicable zoning ordinances. (*van't Rood v. County of Santa Clara* (2003) 113 Cal.App.4th 549, 564.) To avoid this requirement, the applicant and County are propagating a fiction that the Lot Merger is not an approval of the Data Center. The Lot Merger would not be requested if it were not for the Data Center; it is one step in the process toward the approval and construction of the Data Center. The Data Center is not a single use, but composed of numerous uses which are not automatically permitted by County Ordinances. The applicant does not disagree with the City's assessment that the A-2 zoning does not permit a data center. As to permitted land uses, the applicant fails to mention that a battery energy storage system (“BESS”), electrical power generation plant, transmission interconnection, substation, and data center yard components of the Data Center require a conditional use permit (“CUP”) in the M-1 zone. A BESS, electrical power generation plant, transmission interconnection, and substation require a CUP in M-2. The Planning Commission cannot assume that the CUPs will be granted in the future.

j. In response to the City's demonstration that the Lot Merger is not consistent with the General Plan, the applicant made up supporting law. There is no such statute that states a planning department's determination that a use is permitted under zoning constitutes a per se finding of General Plan consistency. The applicant does not cite to any legal authority because it does not exist.

k. The applicant misstated the ALUCP. The ALUCP does not state, as the applicant alleges, that the requirement for a consistency review occurs when a building permit is applied for. The ALUCP states: "All projects shall be referred to the Commission at the earliest reasonable point in time so that the Commission's review can be duly considered by the local jurisdiction prior to formalizing its action." As the Lot Merger is a critical component of the Data Center (because without it the Data Center could not be constructed) the Commission should review the Data Center for consistency before the Lot Merger is considered.

i. The applicant is claiming a different CEQA exemption than the County for the Lot Merger. The County alleges the Lot Merger is exempt under Class 5, minor alteration of land (staff report, p. 4). The applicant is claiming the lot merger is exempt as a ministerial approval. A lot merger is a discretionary approval, not ministerial.

The City reserves the right to submit additional evidence and legal argument to support its contentions that the lot merger as proposed is illegal.

5. The City is requesting that the Board of Supervisors deny the Lot Merger.

Thank you for your attention to this matter.

Sincerely,



Alene Taber

cc: Dennis Morita, City Manager (dmorita@imperial.ca.gov)  
Katherine Turner, Esq., City Attorney (kturner@cityofimperial.org)  
Gerardo Quero, Planner II (Gerardoquero@co.imperial.ca.us)  
Geoffrey Holbrook, Esq., County Counsel (countycounsel@co.imperial.ca.us)  
Nathan George, Esq., Remy Moose Manley, LLP (NGeorge@rmmenvirolaw.com)  
Sebastian Rucci, Esq., Imperial Valley Computer Manufacturing, LLC  
(sebastian@ruccilaw.com)

Attachment



December 17, 2025

VIA EMAIL ONLY

Chairman, Rudy Schaffner  
Vice Chairman, Carson Kalin  
Russell Roben  
Tony Gallegos  
Sergio Cabanas  
Katheryn Cynthia Dunn  
Ernesto Medina  
Scott Wright  
Jose Hinojosa  
Planning Commission  
801 Main Street  
El Centro, CA 92243  
ICPDSComentLetters@co.imperial.ca.us

**Subject:** December 18, 2025 Planning Commission Meeting; Agenda Item 2, Consideration of Lot Merger No. 00191

Dear Chairman Schaffner, Vice Chairman Kalin, and Honorable Members of the Planning Commission:

This firm represents the City of Imperial with regards to the Data Center Project. The Planning Commission is scheduled to consider a request by the applicant Imperial Valley Computer Manufacturing, LLC ("IVCM") to merge five parcels and Leimgruber Road (the "Property"). The City urges the Planning Commission to deny the proposed lot merger for the reasons set forth in this letter, or in the alternative, send the application back to the Planning Department to be properly analyzed and processed in accordance with the State Subdivision Map Act, the California Environmental Quality Act ("CEQA"), State Planning and Zoning laws, and the Municipal Code. Among other items, the current proposal before the Planning Commission is based upon false information and violates the law:

- IVCM falsely certified in the lot merger application that it owns the entire Property. (Exhibit 1 [applications].) According to the County Assessor's Office, IVCM does not. State law prohibits the filing of a map with the County that does not have written consent of all parties that have any record title interest. (Exhibit 2 [Gov. Code, § 66430].) This is a serious issue. A violation of the Subdivision Map Act is considered a misdemeanor. (Exhibit 3 [Gov. Code, § 66499.31].)

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- The Subdivision Map Act only authorizes the merger of contiguous parcels that are ***under common ownership***. (Exhibit 4 [Gov. Code, § 66499.20.3].) The Planning Commission would be violating State law if it approved the lot merger.
- Leimgruber Road is a public roadway owned in fee by the County. The Subdivision Map Act does not authorize merging this Road with the other parcels because only “contiguous parcels under common ownership” can be merged and the Road is not owned by the adjacent property owners. Before the Road can be merged, the Board of Supervisors would have to vacate the Road and convey the ownership of the Road to a private entity that owns the contiguous parcels. The Planning Commission lacks authority and jurisdiction to merge the Road with the other parcels and to presume and act for the Board of Supervisors on the Road vacation.
- Municipal Code, section 90501.01 (Exhibit 5) does not permit the Planning Commission to rezone the Property M-1-U as part of the lot merger. Such an interpretation violates well-established State Planning and Zoning laws that designate rezones as a discretionary action that must be reviewed by the Planning Commission and **approved by the Board of Supervisors following a noticed public hearing**. (Exhibit 6 [Gov. Code, § 65856].) The Planning Commission would be violating State law if it rezoned the parcels as part of the lot merger.
- The lot merger does not qualify for an exemption under the CEQA Guidelines, section 15305, Class 5 (Minor Alterations in Land Use Limitations). The CEQA Guidelines (14 CCR § 15378, subd. (a)-(c)) requires that the entire Project including all of the components be considered together when making a CEQA determination and the construction of a million square foot data center is hardly a minor alteration to the Property.

It is difficult to imagine that the Planning Commission would want to normalize and establish a precedence of ignoring the Subdivision Map Act, CEQA, State Planning and Zoning laws, and the County Municipal Code by approving this lot merger.

#### **1. The Lot Merger Application is Faulty and Inaccurate.**

According to the lot merger application, the applicant attested that it was the sole legal owner of the Property. (Exhibit 1.) This is not accurate, and the County knows it is not. The certification of ownership on the lot merger application directly contradicts the application to the County for the grading permit that was accompanied by owner’s affidavits from three different landowners none of whom were IVCN. The City confirmed with the County Assessor that IVCN is not the owner of any of the parcels. Further, there would be no need for the County to condition the lot merger upon proof of single ownership after the lot merger is approved if the County were not aware that the lot merger application was inaccurate.

State law prohibits the filing of a map with the County that does not have written consent of all parties that have any record title interest. (Exhibit 7 [Gov. Code, § 66430].) The County Municipal Code follows State law requiring that a lot merger may only be initiated by the record property owner. (ICMC, § 90808.) Applications for land use permits are required to include the signature of the applicant and if the applicant is not the property owner, then the signature of the

owner or an owner's affidavit. (ICMC, § 90104.00(A).) There were no property owner affidavits submitted with the lot merger application; instead IVCM claimed to be the property owner when it is not. Every application must include a site plan that includes all proposed structures below and above ground. (ICMC, § 90104.00(B).) Applications under the Subdivision Map Act must include a preliminary title report and details of all parties with a legal interest in the property. (ICMC, § 90104.00(C).) This requirement was bypassed by the filing of an application in which the applicant falsely portrayed itself to be the owner of the parcels. Because the map cannot even be filed without this written consent, compliance with State law and the Municipal Code cannot be circumvented by imposing a condition requiring single ownership after the merger is approved.

The application should have been rejected. The County Municipal Code, section 90808.03 is clear that “[u]nder no conditions shall the Department accept an incomplete application and commence processing it, unless and until all necessary information and supporting documentation is provided.” Instead of rejecting the application, the County is asking the Planning Commission to approve a lot merger based on a false certification and one that lacks all property owner approval and consent.

**2. The Lot Merger is Not Authorized by the State Subdivision Map Act and the County Municipal Code Because the Parcels are Not Under Common Ownership.**

Contiguous parcels may be merged either by a legislative body or by a property owner petition. The applicant elected to proceed with a property owner petition. The Subdivision Map Act specifically authorizes a property owner to request the County merge parcels; **but, all of the parcels must be under common ownership.** (Exhibit 4 [Gov. Code, § 66499.20.3].) This prohibition serves multiple constitutional and policy purposes including protecting property rights by preventing involuntary takings, ensuring due process, and preventing property owners from manipulating ownership structures after merger proceedings begin. The County Municipal Code, section 90801.04(41) confirms that a lot merger means “the joining of two or more contiguous parcels of land under one ownership into one parcel.” Thus, the lot merger does not conform to State law and County Ordinance because the parcels to be merged are not under common ownership.

The County Municipal Code cannot be interpreted to permit the lot merger because the State Subdivision Map Act prohibits local ordinances that are not consistent with State law or conflict with the provisions of the Subdivision Map Act. (Gov. Code, §§ 66421, 66498.6 [local agencies do not have the option to disregard any state or federal laws, regulations, or policies.] Imposing a condition that requires all the parcels to be deeded under the same ownership after the Planning Commission's approval and before the final map is recorded does not comply with the law. The parcels must be under single ownership **before** the lot merger is approved. Because the parcels are not under single ownership, a merger would be in violation of the State Subdivision Map Act and the County Municipal Code.

**3. The Lots Cannot Be Merger Because Leimgruber Road is Required to be Vacated by the Board of Supervisors First.**

Leimgruber Road bisects the proposed lot merger; the parcels to be merged are not contiguous. Leimgruber Road is a public roadway owned in fee by the County. Government Code section 66499.20.3 only authorizes the merger of *contiguous parcels under common ownership*. The Municipal Code aligns with the Subdivision Map Act by prohibiting parcels that are separated or affected by an easement right-of-way, road, alley or canal (including public utility easements) from being merged. (ICMC, §§ 90808.00, 90808.03.) The County is also a landowner whose consent is required before the Road can be merged with the other parcels. (Gov. Code, § 66430.) For the County to approve merging Leimgruber Road with adjacent parcels, the Board of Supervisors must first authorize a road vacation and transfer the parcel to the private owner of the neighboring land so that all the parcels to be merged are contiguous and under common ownership. The Subdivision Map Act does not allow for the merger of public roads with private property under section 66499.20.3.

The staff report confirms that the lot merger is not consistent with the Subdivision Map Act and Municipal Code until after the Imperial County Board of Supervisors approves a road abandonment application for Leimgruber Road. Compliance with the law is required *before* the merger is approved. According to the conditions of approval, it appears that the applicant has not even applied for the road vacation. Not only would approval of the lot merger be in violation of the law, but there is no certainty that the Road will be vacated because the Board's action is discretionary and resident support is required. Specifically, the Board must determine that the road is not needed now or in the future, but no evidence supports this conclusion. (St & Hwy Code § 8324.) Residents would need to join the application to vacate the road, and there is no indication that there are sufficient numbers of residents willing to do so. (St & Hwy Code § 8321.) The Planning Commission lacks authority and jurisdiction to presume the Board of Supervisors will approve the Road vacation at some undefined time in the future or to act on its behalf.

Further, the lot merger is also affected by several other easements. The County is requiring the dedication of right-of-way for the future development of Clark Road.<sup>1</sup> There is a Date Canel that runs along Clark Road. There are a number of other easements recorded upon the different parcels. The Municipal Code is clear that the Planning Commission cannot even consider a merger where the lots are separated by "separated by or affected by an easement, right-of-way, road, alley or canal (including public utility easements)." (ICMC, §§ 90808.00.)

**4. The Lot Merger is Not Consistent with Applicable Zoning Codes Because the Data Center Project is Not a Permitted Use.**

The Property has several different zoning designations under the County Municipal Code, specifically A-2U [General Agricultural within Urban Boundaries], M2-U [Medium Industrial within Urban Boundaries], and M-1-N-U [Light Industrial, No Residential within Urban Boundaries]. The Property is overlaid with the "U" zone designating it as an urban area. The Data Center Project is proposed to be located on this multi-zoned Property. (ICMC, § 90501.08.)

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<sup>1</sup> It is unclear whether the County is requiring the dedication of an easement or land in fee.

The purpose of requiring all applications include a site plan is to ensure that the proposed use is allowed.

Municipal Code, section 90508.1 identifies the particular uses that are permitted in the A-2 zone. A data center is not listed as a permitted use in A-2. No building or structure may be erected or use established that is not permitted in the zone. (ICMC, § 90501.06(A).) Municipal Code, section 90508.02 provides that a BESS is permitted in the A-2 zone with a CUP only if it is connected to an existing electrical power generation plant, which is not the case. Municipal Code, section 90508.03 states that “[a]ll other uses not expressly permitted by Section 90508.01 or 90508.02 are prohibited. Therefore, the Data Center Project including the BESS are not permitted uses on those portions of the Property zoned A-2.

Municipal Code, section 90515-01 identifies a data center within an enclosed building as a permitted use in M-1. However, a BESS, electrical power generation plant, transmission interconnection, substation, and data center yard require a CUP in the M-1 zone. Municipal Code, section 90516-01 identifies a data center within an enclosed building as a permitted use in the M-2 zone. However, a BESS, electrical power generation plant, transmission interconnection, and substation require a CUP in M-2. The Planning Commission cannot approve a lot merger for unpermitted uses.

**5. A Formal Rezoning Approval is Required Before the Lot Merger Can be Approved.**

The applicant asserts that Municipal Code, section 90501.01 (Exhibit 5) permits the Planning Commission to rezone the Property M-1-U as part of the lot merger. This is an inaccurate interpretation of the law. Municipal Code, section 90501.01 actually prohibits the Planning Commission from taking the action the applicant requests. Section requires that every parcel shall only be classified in only one base zone. It is not a permissive ordinance that establishes the process for rezoning; it is a prohibitive ordinance. The only exception to the prohibition on parcels having more than one zoning designation is for parcels greater than 40 acres that are zoned A-2/A-3 Traffic Corridor. None of the parcels have this zoning designation. This exception is not a grant of approval to the Planning Commission to rezone property.

The rezoning process is well-established. California Planning and Zoning laws require the legislative entity to approve a zone change. Government Code sections 65853-65857 establish a mandatory two-stage approval process for zoning amendments that change property from one zone to another. This process requires: (1) a planning commission hearing and written recommendation, followed by (2) a legislative body hearing where the board of supervisors must approve, modify, or disapprove the zoning amendment. California courts have consistently held that zoning amendments are legislative acts requiring legislative body approval, and that this approval is discretionary rather than ministerial.

The Municipal Code is consistent with State law providing that rezoning is a discretionary action that must be reviewed by the Planning Commission and approved by the Board of

Supervisors following a noticed public hearing.<sup>2</sup> (ICMC, §§ 90204.05-07.) The Planning Commission cannot approve a rezoning via a lot merger and supersede the authority and jurisdiction of the Board of Supervisors. Further, even if the Planning Commission could approve the rezone, which it cannot, the proper notices were not provided 20 days before the hearing. (Gov. Code, § 65854(b).)

**6. The Lot Merger is Inconsistent with the General Plan.**

The Subdivision Map Act, Government Code, section 66473.5 and the Municipal Code, section 90801.05 prohibits the creation of a subdivision that is inconsistent with the General Plan. Further, every request for a change of zone must be found to be consistent with the County's General Plan. (ICMC, § 90204.02.) The rule of general plan consistency is established by adopted California Planning and Zoning Laws and requires projects to be compatible with the objectives and policies of the adopted County General Plan. A project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear. (*Families Unafraid to Uphold Rural Etc. County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1341-42.) The most fundamental policies pertain to Land Use. The Data Center Project is not consistent with the General Plan:

a. The Data Center Project is inconsistent with the six basic concepts adopted by the Board of Supervisors in support of the General Plan: quality of life; safety for people and property; wide selection of social and economic opportunities; efficient use of natural; human and financial resources; clean air, water and land; and quiet, beautiful communities and rural areas.

b. The Data Center Project is inconsistent with Land Use Element, objective 3.1, protecting property and the public health, safety and welfare; objective 4.3, maintaining and requiring compatible land uses within the existing communities; and objective 4.4, limiting the establishment of non-residential uses in predominantly residential neighborhoods.

c. The General Plan prohibits the removal of land from agricultural categories unless for a renewable energy purpose, a mapping error occurred or "where a clear long term economic benefit to the County can be demonstrated through the planning and environmental review process."

(See also No. 8.s. below.)

The Municipal Code, section 90501.08 includes special provisions for "U" zoned parcels. The Municipal Code states that "[w]ith regard to urban areas around incorporated cities, it is the intent of the county of Imperial to adhere to the standards, rules, regulations and ordinances of said urban jurisdiction. To that end, the board of supervisors directs staff to work with their respective counterparts in the urban area and to use to the extent feasible and possible the urban area regulations in implementing any proposed land use action." The County General Plan states that

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<sup>2</sup> A zone change was not clearly noticed for approval by the Planning Commission and would likely violate the Brown Act.

for urbanizing areas surrounding incorporated cities it is intended to include zoning reclassifications based on the adopted land use plans of the cities.

The Property is designated by the City in the General Plan as Rail Served Industrial. This designation provides for industrial/agricultural uses that require rail access. The Data Center Project as currently proposed is not compatible with the General Plan designation. Data centers and BESS are not listed as permitted uses in this zone. Therefore, rezoning the Property contrary to the uses permitted by the City would be contrary to Imperial County Municipal Code, section 90501.08 and the General Plan.

#### **7. The Lot Merger is Not Exempt from CEQA.**

The County claims that the lot merger is exempt under CEQA Guidelines, section 15305, Class 5 (Minor Alternations in Land Use Limitations). Such an exemption would violate CEQA.

Imperial County adopted CEQA regulations. (see chrome-extension://efaidnbmnnpbpcjpcglclefindmkaj/https://www.icpds.com/assets/planning/california-environmental-quality-act/ceqa-rules-final-board-approved-update-04-04-2017-pdf.pdf.) Section 7 of the County's CEQA regulations requires preparation of an initial study. If there is an initial study, it should have been made available to the public. If there is no initial study, then the County has violated its CEQA regulations by not preparing the document.

The proposed Class 5 exemption violates CEQA for the following reasons:

First, the County is required to consider the entire project in making a CEQA determination. "'Project' means the whole of an action which has a potential for resulting in a direct physical change or a reasonably foreseeable indirect physical change in the environment." (14 CCR § 15378, subd. (a).) CEQA requires the entire project to be reviewed as a single action even if project components are subject to individual approvals. (14 CCR § 15378, subd.(a)-(c).) Agencies are not permitted to avoid environmental review by chopping up a project into small pieces. (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 284.) The lot merger is only one part of the Data Center Project.

The merged parcels are for the Data Center Project which includes: a 950,000 square foot data center building, one story and 35 feet high with 180 parking spaces; a large-scale battery energy storage system ("BESS") composed of Tesla Megapacks supplying 862 megawatt hour ("MWh"); electrical substation for 250-500 MW; cooling towers; 100 natural gas powered backup emergency generators connected to Southern California Gas Company's high pressure gas line located on Aten Road for continuous fuel supply to provide 330 MW of emergency power; retention basin; four 500,000 gallon storage tanks for water; on-site wastewater treatment center to treat some of the wastewater generated on the site and construction of a new line to convey untreated wastewater to Imperial Irrigation District's ("IID") central drain; dedicated conveyance system for reclaimed water that may require new plant upgrades; transmission interconnection to IID's 230kV "S" Line between IID's El Central switching station and San Diego Gas & Electric's Imperial Valley substation; and transmission interconnect to IID's 92 kV "R" Line.

None of these Project components have independent utility, including this lot merger. The serial approval of Project components as the County is doing violates CEQA.

Second, a CEQA exemption cannot be applied to only one portion of a project. (*Association for a Cleaner Environment v. Yosemite Community College Dist.* (2004) 116 Cal.App.4th 629, 640.) The County previously approved a grading permit claiming it was exempt from CEQA because it was a ministerial approval. Now, the County is taking the position that the lot merger is exempt because it does not involve any alterations in land. These positions are legally inapposite. The grading permit involves significant alterations of land and the lot merger proves the Project approvals are discretionary. Thus, the Project does not qualify for CEQA exemptions as a Class 5 minor alternation of land or ministerial approval.

Third, the City is a responsible agency. Under CEQA lead agencies have mandatory obligations to consult with responsible agencies before deciding whether a project is exempt from CEQA. (Pub. Res. Code, § 21080.3(a).) The required consultation did not occur. Had the County consulted with the City, the City would have objected to the County's decision that lot merger was exempt from CEQA, and instead would advise that an environmental impact report ("EIR") is required for the entire Data Center Project. The Subdivision Map Act likewise requires the Planning Commission consider the City's recommendations and concerns. (Gov. Code, § 66453(c).)

Fourth, the lot merger does not qualify for a Class 5 exemption. The Class 5 exemption applies to minor alterations in land use limitations that "do not result in any changes in land use or density" such as minor encroachment permits, lot line adjustments, reversions to acreage, etc. The examples in each Class can be relied upon to understand the scope of the exemption. (*California Farm Bureau Federation v. California Wildlife Conservation Bd.* (2006) 143 Cal.App.4th 173 189.) The scope of the Data Center Project is significant including a 950,000 square foot data center building, a BESS, electrical substation 100 gas powered backup emergency generators, etc. These are not the types of minor alterations identified as examples in the exemption.

Fifth, CEQA Guidelines, section 15300.2(c) qualifies exemptions by declaring certain exemptions inapplicable in some circumstances. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. As discussed below, there is evidence that the data center will have a significant effect on the environment. Therefore, the Class 5 exemption does not apply.

Sixth, CEQA requires the County prepare an EIR if there is substantial evidence in light of the 'whole record' that there is a fair argument that the project may have a significant effect on the environment (Pub. Res. Code, § 21080(d)). The record demonstrates that, among other things, the Data Center Project has the potential to cause significant impacts, including but not limited to:

a. Safety hazards (due to its propensity to deflagrate and release toxic gases) to nearby residences resulting from fires, explosions, and toxic and hazardous emissions from electrical failures, equipment overheating, etc. There is a potential risk of upset to the nearby tank farm.

These fires can be difficult to extinguish and can cause evacuations and impacts to emergency response capabilities.

b. A Project of this size on 74 acres will involve moving massive amounts of dirt (excavation and fill) for foundations, utility trenches, leveling, etc. The specific quantities for grading and excavation, including cubic yards moved, have not been made public. The Property appears from the County GIS maps to be more than 50 feet below sea level. To put the potential amount of excavation that might be required in perspective, moving just six inches of soil on this site equates to roughly 59,500 cubic yards, requiring about 5,000 truckloads (at 12 yards each) for removal or vice versa if six inches of soil are transported to the Property. In addition, there will be off-site construction and trenching for power lines, water lines, stormwater, street improvements, etc.

c. Air toxic and criteria pollutant emissions resulting from the operation of **100 gas powered backup emergency generators** and diesel fuel combustion associated with construction. The Imperial County Air Pollution Control District (“Air District”) has already determined that a health risk assessment (“HRA”) is required because the data center has a preliminary prioritization score higher than 10 in a million cancer risk, per a screening assessment performed by the Air District as part of the AB2588 “Hot Spots” program analysis. According to the Air District’s CEQA Air Quality Handbook project impacts are considered significant if the project has the potential to emit toxic or hazardous air pollutants even at a very low level of emissions because of the increased cancer risk to nearby populations. According to the Air District, this is also true of development projects which have the potential to emit toxic or hazardous air pollutants when located in close proximity to sensitive receptors, which is the case for this Data Center Project. (<chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://apcd.imperialcounty.org/wp-content/uploads/2020/01/CEQAHandbk.pdf>) The HRA needs to be completed to determine whether there will be an increased cancer or hazard risk at any of the nearby residences as a result of the Project. The HRA needs to be available for public review and comment before any aspect of this Project is approved.

d. Imperial County is a nonattainment area for multiple National Ambient Air Quality Standards (“NAAQS”), specifically for ozone, PM10, and PM2.5. Both the construction and operation of the project will cause emissions that are precursors to ozone and fine particulates. Sources such as the natural gas engines, vehicles, and construction equipment emit pollutants like nitrogen oxides, carbon monoxide, carbon dioxide, volatile organic compounds, and methane. The Air District’s CEQA Air Quality Handbook sets forth thresholds of significance. The developer reports the engines alone would emit 133.8 lb/day NOx, 267.5 lb/day CO, and 93.5 lb/day VOC. Vehicle trips could conservatively add 12.6 lb/day Nox.<sup>3</sup> These two sources alone would exceed

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<sup>3</sup> According to the screening table, the vehicle trips alone from a warehouse that is 660,000 square feet would exceed the thresholds of significance. The Data Center is much larger. Warehouses are estimated to have 4.9 vehicle trips per parking space per day, which would be 882 estimated vehicle trips based on 180 parking spaces. The 6-county Southern California Association of Governments (“SCAG”) region average weekday vehicle trip length is 17.2 miles, which would be 15,170 miles per day.

the Air District's thresholds of significance NOx. The CEQA Air Quality Handbook also requires that the standard mitigation measures for construction equipment and fugitive PM10 must be implemented at all construction sites and the implementation of discretionary mitigation measures, as listed in Section 7.1, apply to those construction sites which are 5 acres or more for non-residential developments. These measures have not been imposed as conditions on the lot merger.

d. Increase in greenhouse gas emissions and the data center complex's carbon footprint. Data centers contribute significantly to global greenhouse gas ("GHG") emissions, estimated around 1-2% of the world's total, primarily from massive electricity use for servers and cooling, often sourced from fossil fuels, generators, and vehicles.

e. Noise and vibration from cooling systems and backup generators, and humming from power systems. Data center noise comes from massive cooling fans, HVAC systems, and backup generators, creating loud, persistent sounds (75-99+ dBA) that challenge nearby communities and affect workers, often characterized by bothersome low-frequency hums that standard measurements miss, leading to health concerns. (See; <https://www.youtube.com/watch?v=t-8TDOFqkQA>)

f. Traffic impacts and changes to traffic circulation. The intersection and roadways at Aten and Clark are designated to be major county arterials but are currently two-lane roads. Clark Road is the primary north/south route that connects the City of Imperial with the City of El Centro and surrounding areas. Aten Road serves as a vital transport link within the City of Imperial. Traffic congestion is already a concern at this intersection. The Data Center will increase vehicle trips and vehicle miles travelled associated with the facility's construction and operation that affects local roads, access points, and potential congestion that requires detailed studies of intersections, roadway capacity, truck turning, and security gate logistics. Requiring full roadway dedications will not resolve the major traffic issues generated by the data center, which the County will permit to operate before needed road improvements are completed. Further, the Imperial County Department of Public Works requires for new development projects that applicants submit a Preliminary Environmental Review to assess potential traffic impacts. (<chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://publicworks.imperialcounty.org/wp-content/uploads/2019/12/TrafficStudyReportPolicy.pdf>) The applicant should be required to comply with the County's Traffic Study Administrative Procedures before the Project is approved.

g. Storage and handling of hazardous and toxic materials. Data centers store hazardous materials like diesel, batteries (lead-acid, lithium), and cooling system chemicals (ammonia), requiring strict handling for safety. Emergency response plans need to be developed and practiced that include spill control and evacuation plans.

h. Visual and aesthetic impact of large windowless structures, cooling towers, substation, BESS, and transmission equipment. There needs to be an evaluation of how the data center's size, shape, and color affect views from nearby roads, homes, and parks as well as light and glare from the potential light pollution from building lights or backup generators impacting night skies or nearby residents.

i. Potential negative effects on property values. Data centers can negatively affect nearby property values primarily through noise (generators, cooling), visual blight (large concrete buildings), light pollution, increased traffic, heavy water/power usage impacting resources, and potential emissions, making homes less desirable.

j. Use of public funds for large infrastructure investment and the risk of stranded assets. The applicants have not entered into any agreements, nor are agreements required for the applicants to pay for all public improvements that need to be improved to serve the Data Center. The public and rate payers should not pay for these improvements. Further, the use of public funds for large infrastructure, such as power grids to support data centers, creates a significant risk of stranded assets if the projected data center demand does not materialize or if the facilities quickly become technologically obsolete. This could result in utilities and taxpayers shouldering the costs for unneeded capacity or outdated facilities

k. The Data Center's energy demand could lead to higher energy costs for residents and reliability issues. High energy demand from sources like data centers is a major factor in higher energy costs for residents and a cause of electricity grid reliability issues for consumers. The strain on the grid means a higher risk of system instability, including potential capacity shortages, voltage spikes and dips (which can damage appliances), and even forced blackouts if demand consistently outpaces supply.

l. Energy demand from equipment; strain on local power grids, potential increase in reliance on fossil fuels. In May 2025, IID Transmission Planning Department prepared a feasibility study for the Data Center Project ("Feasibility Study"). (See Exhibit 8 [Feasibility Study].) The Feasibility Study was prepared in response to a request from IVCM for the interconnection of the Data Center Project to the IID System at the 230kV 'S' line between the ECSS and SDG&E Imperial Valley substation. The Feasibility Study concluded that at a 500 MW load thermal and voltage violations were found under the following outage: "P1: Loss of 230kV 'S' One between 2320 kV Imperial Valley Substation and 230 kV IVCM Substation." In July 2025, IID Transmission Planning Department prepared a system impact study for the Data Center Project ("System Impact Study"). (See Exhibit 9 [System Impact Study].) The System Impact Study was prepared in response to a request from IVCM for the interconnection of the Data Center Project to the IID System at the 230kV 'S' line between IID's ECSS and SDG&E's Imperial Valley substation. As part of this System Impact Study, the IID evaluated the interconnection of 250 MW of load to assess potential system impacts and infrastructure requirements. IID deemed the Data Center Project feasible under the System Impact Study. However, IID assumed for both the Feasibility Study and System Impact Study that the majority of the power required to serve the load demanded by the Data Center Project would be imported because IID concluded that it did not have the capability to reliably support a large-scale load requiring continuous 24-hour service with existing resources. IID did not commit to serve the requested load. The applicants also requested IID conduct a System Impact Study for the transmission interconnect to IID's 92 kV 'R' Line. It is not known whether this study was conducted or a feasibility study, and if so, the results. This project should not be approved until IID can ensure capacity to serve the data center, that there will be no reliability issues associated with the service, and the ratepayers are protected from increased prices and stranded impacts.

m. Heat island effects. Data centers significantly contribute to the urban heat island (“UHI”) effect by releasing vast amounts of waste heat into city environments, raising local temperatures, worsening air quality, and increasing energy demand for cooling in nearby buildings. This heat, a byproduct of intense server operations, creates localized hot spots in an area that already experiences extreme heat. (See e.g., <https://eolios.eu/data-center/urban-heat-island-impact-study-for-data-centers/>.)

n. Data centers require massive amounts of water daily for cooling as well as generate significant wastewater. (See Exhibit 10 [EESI water consumption]; Exhibit 11 [Lincoln Institute].) IVCN asserts the data center will be supplied with reclaimed water from a municipality. But, to date no municipality has agreed to provide reclaimed water to the site for the data center. (See Exhibit 12 [El Centro Water Statement].) The Colorado River is operating under drought conditions, and IID is operating under a System Conservation Implementation Agreement and Deficit Irrigation Program that calls for further conservation. (See Exhibit 13 [IID Deficit Irrigation Program].) The data center’s water and wastewater requirements must be specified, with sources and availability identified, and off-site treatment capability confirmed.

o. The development of 74 acres will increase water runoff from more impervious surfaces and lead to the potential pollution of the on-site canal. Runoff picks up pollutants such as sediment, oil, grease, and chemicals from paved surfaces and can carry them untreated into local canal harming aquatic habitats and agricultural resources.

p. Disposal of electronic components that contain hazardous materials during decommissioning and maintenance raise the issue of whether there are sufficient recyclers to avoid disposal in landfills.

q. Habitat disruption. Vacant (fallowed or idle) agricultural land in Imperial County can potentially provide valuable habitat for special-status and critical species, particularly birds. Imperial Valley supports over 60% of California’s burrowing owls, making it a critical refuge, but habitat loss is a major concern. The property is within the Burrowing Owl Species Distribution Model according to the County General Plan. Two of California’s three flat-tailed horned lizard populations are in Imperial County, living in desert flats and washes, and are designated as a Species of Special Concern. Peirson’s Milkvetch is an endangered plant found in the Imperial Valley. The Crissal Thrasher and Yellow-breasted Chat are California Species of Special Concern found in the Valley’s riparian areas. The Desert Pupfish uses agricultural drains and canals; there is a canal on the property. Detailed biological surveys are required to identify species and occupied habitats.

r. Loss of agricultural land. Agriculture has been and is the single most important economic activity of Imperial County. The County’s General Plan calls for the primary use of any parcel designated “Agriculture” on the Land Use Plan to be maintained for agricultural production. Further, where a development permit is sought adjacent to agricultural land use, as here, the agricultural operations are required to be protected with an appropriate buffer zones, not merged out of existence.

s. Failure to comply with the Municipal Code and General Plan goals and policies that were adopted to mitigate environmental impacts. These include the following:

- Conservation/Open Space Element: Objective 1.4: Ensure the conservation and management of the County's natural and cultural resources.
- Conservation/Open Space Element: Objective 2.4: Use the CEQA and NEPA process to identify, conserve and restore sensitive vegetation and wildlife resources.
- Conservation Element/Open Space: Objective 6.1: Ensure the use and protection of all the rivers, waterways, and groundwater sources in the County for use by future generations.
- Conservation/Open Space Element: Objective 6.2: Ensure proper drainage and provide accommodation for storm runoff from urban and other developed areas in manners compatible with requirements to provide necessary agricultural drainage.
- Conservation/Open Space Element: Objective 6.7: Prohibit the inappropriate siting of solid or hazardous waste facilities next to water bodies or over sources of potable groundwater or recharge basins.
- Conservation/Open Space Element: Objective 7.1: Ensure that all project and facilities comply with current Federal, State, and local requirements for attainment of air quality objectives.
- Agricultural Element: Objective 1.8: Allow conversion of agricultural land to non-agricultural uses including renewable energy only where a clear and immediate need can be demonstrated, based on economic benefits, population projections and lack of other available land (including land within incorporated cities) for such nonagricultural uses.
- Agricultural Element: Objective 3.1: The primary use of any parcel designated "Agriculture" on the Land Use Plan shall be agricultural production.
- Agricultural Element: Objective 3.6: Where a development permit is sought adjacent to agricultural land use, protect agricultural operations by requiring appropriate buffer zones between agricultural land and new developments, and then keep these zones aesthetically pleasing and free of pests by cleaning them of all garbage and noxious vegetation. Vegetation for the purpose of dust control shall be planted and maintained in an attractive manner. The buffer shall occur on the parcel for which the development permit is sought and shall favor protection of the maximum amount of farmland.
- Agricultural Element: Objective 4.1: The County must favor efforts to ensure adequate irrigation water for agricultural areas.
- Circulation Element: Objective 1.2: Require a traffic analysis for any new development which may have a significant impact on County roads.
- Circulation Element: Objective 1.3: Ensure safe and coordinated traffic patterns, contiguous growth, and promote a planned and consistent development around city/township areas. Require that coordination with other jurisdictions, including the cities and CALTRANS results in a coordinated system that is consistent in classification, RoW and improvement standards. This is intended to provide

“throughways” that allow for the flow of traffic at LOS “C” or better throughout the system, both in cities as well as the County.

- Circulation Element: Objective 1.11: Improve County circulation system roadways in concert with land development to ensure sufficient levels of service.
- Circulation Element: Objective 1.13: Work with adjacent jurisdictions and transportation agencies to identify necessary improvements to the regional roadway system to ensure adequate interregional and intraregional access throughout the County.
- Circulation Element: Objective 2.4: Develop and improve aviation facilities. Reduce aviation-related hazards, including hazards to aircraft and hazards posed by aircraft.
- Circulation Element: Objective 2.5: Ensure consistency of the General Plan with the provisions of the Airport Land Use Plan.
- Circulation Element: Objective 3.8: Attempt to reduce motor vehicle air pollution. Require all major projects to perform an air quality analysis to determine the amount of pollution, as well as the alternative reduction options.
- Circulation Element: Objective 5.3: The County shall cooperate with the adjacent communities and agencies such as Imperial to provide the maximum compatibility of adopted circulation elements and regional facility plans.
- Noise Element: Objective 1.1: Adopt noise standards which protect sensitive noise receptors from adverse impact.
- Noise Element: Objective 1.3: Control noise levels at the source where feasible.
- Noise Element: Objective 1.5: Identify sensitive receptors with noise environments which are less than acceptable, and evaluate measures to improve the noise environment.
- Noise Element: Objective 2.3: Work with project proponents to utilize site planning, architectural design, construction, and noise barriers to reduce noise impacts as projects are proposed.
- Water Element: Objective 1.2: Cooperation between the Cities and County for the need to maintain, upgrade, and expand domestic water and sewage treatment facilities of the communities within the County, the need for the implementation of appropriate development fees, and the raising of service fees to off-set limited public financial resources.
- Water Element: Objective 1.3: The efficient regulation of land uses that economizes on water consumption, enhances equivalent dwelling unit demand for domestic water resources, and that makes available affordable resources for continued urban growth and development.

(See also No. 7 above.)

Accordingly, the County is obligated to prepare an EIR to address the significant environmental effects of the “whole” Data Center Project and consider alternatives (such as a different and safer location) and mitigation measures to reduce these significant effects.

**8. The County Airport Land Use Commission is Required to Review the Project for Consistency.**

The Data Center Project is located within an area covered by an Airport Land Use Compatibility Plan ("ALUCP"), Zone C. (ICMC, § 90601.08.) The ALUCP seeks to protect the public from the adverse effects of airport noise, ensure people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure no structures or activities encroach upon or adversely affect the use of navigable airspace. Under the ALUCP the County Airport Land Use Commission is required to review building permit applications for projects having a valuation greater than \$500,000.00 to determine whether the project is compatible, not compatible or compatible with restrictions with the criteria identified in the ALUCP. All projects shall be referred to the Commission at the earliest reasonable point in time so that the Commission's review can be duly considered by the local jurisdiction prior to formalizing its action. It is believed that this Data Center Project has a valuation in excess of \$500,000.00 and therefore, County Airport Land Use Commission review and consistency finding is required. This review should occur before the Planning Commission exercises its discretion on this lot merger application.

According to the ALUCP for the Imperial County Airport, the uses that are acceptable in Zone C are agricultural uses, warehouses, truck terminals and low-intensity manufacturing. Data centers, BESS, water tanks and cooling towers are not land uses that were analyzed in the ALUCP. Power lines and electrical substations are identified as uses which could be potentially compatible with restrictions. Chapter 2 provides some guidance on determining compatibility. Specifically, the ALUCP states that land uses which may produce hazards to aircraft in flight shall not be permitted within any airport's planning area including: (1) glare or distracting lights which could be mistaken for airport lights; (2) sources of dust, steam, or smoke that may impair pilot visibility; (3) sources of electrical interference with aircraft communications or navigation; and (4) any use which may attract large flocks of birds. Data centers implicate three of these four criteria. Data centers produce significant light and glare due to their 24/7 operations and the intense, constant illumination for operations, security and maintenance. This can lead to light pollution, skyglow especially in rural areas, and potential glare for workers and nearby residents. Cooling systems can produce significant amounts of water vapor/steam. Data centers can be significant sources of electrical interference known as electromagnetic interference ("EMI") or "electrical noise" which is a natural byproduct of their high power consumption and the operation of numerous electronic devices.

**Conclusion**

The City is not opposed to responsible development of data centers in Imperial County that includes a robust public process. However, this particular Project violates numerous zoning and subdivision laws and should not be approved.

The Municipal Code, section 90808.03 requires the Planning Commission<sup>4</sup> make these specific findings:

- A. All the lots or parcels are contiguous.
- B. Whether the lot merger conforms to State law and County Ordinance.
- C. The lot merger is between lots or parcels that were created by a parcel or tract map consistent with the Subdivision Map Act and County Ordinance in effect at the time they were created.
- D. The lots or parcels are not separated or affected by any easement, right-of-way, road, alley or canal (including public utility easements).
- E. The parcel as merged will not be deprived access as a result of the merger.
- F. Access to the adjoining parcels will not be restricted by the merger.
- G. The parcel as merged will not conflict with the location of any existing structures on the property.
- H. No new lot or lots are created through the merger.

As explained fully in this letter, the Planning Commission cannot make these findings. The parcels are not contiguous and under common ownership at the time of the merger. A road separates the parcels, and the property has multiple zoning designations. The Data Center is not a permitted use and is not consistent with the General Plan. The lot merger is not exempt under CEQA as a minor alteration of land.

Please include this letter, all of the attachments and the information from the referenced websites in the administrative record for this Project.

Sincerely,



Alene Taber  
Attorneys for City of Imperial

cc: Dennis Morita, City Manager (dmorita@imperial.ca.gov)  
Katherine Turner, Esq., City Attorney (kturner@cityofimperial.org)  
Jim Minnick, Planning & Development Services Director (jimminnick@co.imperial.ca.us)  
Gerardo Quero, Planner II (Gerardoquero@co.imperial.ca.us)  
Geoffrey Holbrook, Esq., County Counsel (countycounsel@co.imperial.ca.us)  
Nathan George, Esq., Remy Moose Manley, LLP (NGeorge@rmmenvirolaw.com)

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<sup>4</sup> The Planning Commission is required to make these findings as it is the first level of government to act on the lot merger application.

# EXHIBIT 1

# LOT MERGER

I.C. PLANNING & DEVELOPMENT SERVICES DEPT  
801 Main Street, El Centro, CA 92243 (442) 265-1738

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME Imperial Valley Computer Manufacturing, LLC	EMAIL ADDRESS Sebastian Rucci, Managing Member	
2. MAILING ADDRESS 16400 Pacific Coast Highway, Suite 212	ZIP CODE 92649	PHONE NUMBER (562)901-1099
3. ENGINEER'S NAME Maurico Lam	CAL. LICENSE NO. LS 8440	EMAIL ADDRESS mauriciolam@lcec-inc.com
4. MAILING ADDRESS 1065 State Street, El Centro, CA 92243	ZIP CODE 92243	PHONE NUMBER (760) 353-8110
5. PROPERTY "A" (site) ADDRESS 291 West Aten Road	LOCATION Intersection of Clark & Aten Road, Imperial County	
6. PROPERTY "A" ASSESSOR'S PARCEL NO.(s) 044-220-042	SIZE OF PROPERTY (in acres or square foot) 3.94 AC	
7. EXISTING USE Vacant Industrial Property	CURRENT ZONE M2-U	
8. PROPERTY "A" LEGAL DESCRIPTION (attach separate sheet if necessary) Please see attached legal description		
9. PROPERTY "B" (site) ADDRESS Please see additional Lot Merger Applications Provided	LOCATION Intersection of Clark & Aten Road, Imperial County	
10. PROPERTY "B" ASSESSOR'S PARCEL NO.(s) Please see additional Lot Merger Applications Provided	SIZE OF PROPERTY (in acres or square foot)	
11. EXISTING USE Please see additional Lot Merger Applications	CURRENT ZONE	
12. PROPERTY "B" LEGAL DESCRIPTION (attach separate sheet if necessary) Please see additional page total of 5 merged parcel.		
13. EXPLAIN PURPOSE/REASON FOR LOT MERGER To accomodate land to construct a Data Center and accessory uses such as a substation, battery back-up, and generater back up. Please see site plan for reference.		
14. PROPOSED MERGED PARCEL SIZE Total 5 parcels merged 71.14 AC	PROPOSED USE Please see additional Lot Merger Applications	

**PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)**

15. DESCRIBE PROPOSED SEWER SYSTEM(s)	On site treatment
16. DESCRIBE PROPOSED WATER SYSTEM	<del>JD North Gate Canal, Gate NDA 44, on-site treatment, reclaimed water</del> SEE PROJECT DESCRIPTION 20
17. DESCRIBE PROPOSED ACCESS TO MERGED PARCEL	Existing Access points Aten Road and Labuenerie Road
18. IS THIS PARCEL PLANNED TO BE ANNEXED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, TO WHAT CITY or DISTRICT?

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT  
Sebastian Rucci, Managing Member  
of Imperial Valley Computer Manufacturing LLC 10.3.25

Print Name (owner) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (owner) \_\_\_\_\_

Print Name (Agent) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (Agent) \_\_\_\_\_  
An owners notarized affidavit is required if application is signed by Agent.

**REQUIRED SUPPORT DOCUMENTS**

- A. SITE PLAN
- B. PROPOSED LEGAL DESCRIPTION
- C. PRELIMINARY TITLE REPORT (8 months or newer)
- D. FEE \_\_\_\_\_
- E. OTHER \_\_\_\_\_

APPLICATION RECEIVED BY: _____	DATE _____	REVIEW / APPROVAL BY OTHER DEPT'S required.
APPLICATION DEEMED COMPLETE BY: _____	DATE _____	<input type="checkbox"/> P. W.
APPLICATION REJECTED BY: _____	DATE _____	<input type="checkbox"/> E. H. S.
TENTATIVE HEARING BY: _____	DATE _____	<input type="checkbox"/> A. P. C. D.
FINAL ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	DATE _____	<input type="checkbox"/> O. E. S.
		<input type="checkbox"/> _____
		<input type="checkbox"/> _____

**MERG#**  
00191

# LOT MERGER

I.C. PLANNING & DEVELOPMENT SERVICES DEPT  
801 Main Street, El Centro, CA 92243 (442) 265-1736

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME Imperial Valley Computer Manufacturing, LLC	EMAIL ADDRESS sebastian@ruccilaw.com/ tom@dubosedesigngroup.com	
2. MAILING ADDRESS 16400 Pacific Coast Highway, Suite 212	ZIP CODE 92649	PHONE NUMBER (562) 901-0199
3. ENGINEER'S NAME Maurico Lam	CAL. LICENSE NO. LS 8440	EMAIL ADDRESS mauriciolam@lcec-inc.com
4. MAILING ADDRESS 1065 West State Street	ZIP CODE 92243	PHONE NUMBER (760) 353-8110
5. PROPERTY "A" (site) ADDRESS N/A See Legal Description	LOCATION Intersection of Clark & Aten Road, Imperial County	
6. PROPERTY "A" ASSESSOR'S PARCEL NO.(s) 044-220-044	SIZE OF PROPERTY (in acres or square foot) 9.77	
7. EXISTING USE Vacant Industrial Property	CURRENT ZONE M2-U	
8. PROPERTY "A" LEGAL DESCRIPTION (attach separate sheet if necessary) See attached		
9. PROPERTY "B" (site) ADDRESS N/A See Legal Description	LOCATION Intersection of Clark & Aten Road, Imperial County	
10. PROPERTY "B" ASSESSOR'S PARCEL NO.(s) 044-220-045	SIZE OF PROPERTY (in acres or square foot) 10.01	
11. EXISTING USE Vacant Industrial Property	CURRENT ZONE M2-U	
12. PROPERTY "B" LEGAL DESCRIPTION (attach separate sheet if necessary) See attached		
13. EXPLAIN PURPOSE/REASON FOR LOT MERGER to accomodate land to construct a data center and accessory uses such as a substation, battery back-up, and generater back up. Please see site plan for reference.		
14. PROPOSED MERGED PARCEL SIZE Total 5 parcels merged 71.14 AC	PROPOSED USE Data Center and Complimentary Uses	

PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)

15. DESCRIBE PROPOSED SEWER SYSTEM(s)	On site treatment
16. DESCRIBE PROPOSED WATER SYSTEM	<del>118 North Gate Canal, Gate NDA 44, onsite treatment &amp; reclaimed water</del> <i>see project description 20</i>
17. DESCRIBE PROPOSED ACCESS TO MERGED PARCEL	Existing Access points Aten Road and <del>Labronhene Road</del> <i>Clark St</i>
18. IS THIS PARCEL PLANNED TO BE ANNEXED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, TO WHAT CITY or DISTRICT?

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT

Sebastian Rucci, Managing Member 10.3.25  
Print Name (owner) Date

*[Signature]*  
Signature (owner)

Print Name (Agent) Date

Signature (Agent) An owners notarized affidavit is required if application is signed by Agent.

### REQUIRED SUPPORT DOCUMENTS

- A. SITE PLAN
- B. PROPOSED LEGAL DESCRIPTION
- C. PRELIMINARY TITLE REPORT (6 months or newer)
- D. FEE \_\_\_\_\_
- E. OTHER \_\_\_\_\_

APPLICATION RECEIVED BY: \_\_\_\_\_

APPLICATION DEEMED COMPLETE BY: \_\_\_\_\_

APPLICATION REJECTED BY: \_\_\_\_\_

TENTATIVE HEARING BY: \_\_\_\_\_

FINAL ACTION:  APPROVED  DENIED

DATE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

REVIEW / APPROVAL BY OTHER DEPT'S required.

P. W.

E. H. S.

A. P. C. D.

O. E. S.

\_\_\_\_\_

\_\_\_\_\_

**MERG#**  
*00191*

# LOT MERGER

I.C. PLANNING & DEVELOPMENT SERVICES DEPT  
801 Main Street, El Centro, CA 92243 (442) 265-1736

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME Imperial Valley Computer Manufacturing, LLC	EMAIL ADDRESS sebastian@ruccilaw.com/ tom@dubosedesigngroup.com	
2. MAILING ADDRESS 16400 Pacific Coast Highway, Suite 212	ZIP CODE 92649	PHONE NUMBER (562) 901-0199
3. ENGINEER'S NAME Maurico Lam	CAL LICENSE NO. LS 8440	EMAIL ADDRESS mauriciolam@lcec-inc.com
4. MAILING ADDRESS 1065 West State Street	ZIP CODE 92243	PHONE NUMBER (760) 353-8110
5. PROPERTY "A" (site) ADDRESS 2304 Clark Road, Imperial CA - 92251	LOCATION Intersection of Clark & Aten Road, Imperial County	
6. PROPERTY "A" ASSESSOR'S PARCEL NO.(s) 044-220-007	SIZE OF PROPERTY (in acres or square foot) 5 AC	
7. EXISTING USE Currently designated A-2 U, not in agricultural production	CURRENT ZONE A-2 U	
8. PROPERTY "A" LEGAL DESCRIPTION (attach separate sheet if necessary) Please see attached.		
9. PROPERTY "B" (site) ADDRESS N/A- See Legal Description	LOCATION Intersection of Clark & Aten Road, Imperial County	
10. PROPERTY "B" ASSESSOR'S PARCEL NO.(s) 044-022-046 <i>see 044-220-046</i>	SIZE OF PROPERTY (in acres or square foot) 42.3 AC	
11. EXISTING USE Vacant Industrial Property	CURRENT ZONE M-1 N U	
12. PROPERTY "B" LEGAL DESCRIPTION (attach separate sheet if necessary) See attached		
13. EXPLAIN PURPOSE/REASON FOR LOT MERGER To accomodate land to construct a Data Center and accessory uses such as a substation, battery back-up, and generater back up. Please see site plan for reference.		
14. PROPOSED MERGED PARCEL SIZE Total 5 parcels merged 71.14 AC	PROPOSED USE Data Center and Complimentary Uses	

PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)

15. DESCRIBE PROPOSED SEWER SYSTEM(s)	On site treatment <i>1 SEE PROJECT DESCRIPTION</i>
16. DESCRIBE PROPOSED WATER SYSTEM	<del>IID North Gate Canal, Gate NDA 44</del> on-site treatment & reclaimed water
17. DESCRIBE PROPOSED ACCESS TO MERGED PARCEL	Proposed access through existing Clark Road & existing access Aten & <del>Labrador</del> Road
18. IS THIS PARCEL PLANNED TO BE ANNEXED?	IF YES, TO WHAT CITY or DISTRICT?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT

Sebastian Rucci, Managing Member of Imperial Valley Computer Manufacturing LLC, 10.3.25

Print Name (owner) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (owner) \_\_\_\_\_

Print Name (Agent) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (Agent) \_\_\_\_\_  
An owners notarized affidavit is required if application is signed by Agent.

### REQUIRED SUPPORT DOCUMENTS

- A. SITE PLAN
- B. PROPOSED LEGAL DESCRIPTION
- C. PRELIMINARY TITLE REPORT (9 months or newer)
- D. FEE \_\_\_\_\_
- E. OTHER \_\_\_\_\_

APPLICATION RECEIVED BY: \_\_\_\_\_

APPLICATION DEEMED COMPLETE BY: \_\_\_\_\_

APPLICATION REJECTED BY: \_\_\_\_\_

TENTATIVE HEARING BY: \_\_\_\_\_

FINAL ACTION:  APPROVED  DENIED

DATE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

DATE \_\_\_\_\_

REVIEW / APPROVAL BY OTHER DEPT'S required.

P. W.

E. H. S.

A. P. C. D.

O. E. S.

\_\_\_\_\_

\_\_\_\_\_

MERG#  
00191

# EXHIBIT 2

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 7. Planning and Land Use (Refs & Annos)  
Division 2. Subdivisions (Refs & Annos)  
Chapter 2. Maps (Refs & Annos)  
Article 1. General Provisions (Refs & Annos)

West's Ann.Cal.Gov.Code § 66430

§ 66430. Consent to filing

Currentness

No final map or parcel map required by this chapter or local ordinance which creates a subdivision shall be filed with the local agency without the written consent of all parties having any record title interest in the real property proposed to be subdivided, except as otherwise provided in this division.

**Credits**

(Added by Stats.1974, c. 1536, p. 3468, § 4, operative March 1, 1975.)

Notes of Decisions (5)

West's Ann. Cal. Gov. Code § 66430, CA GOVT § 66430

Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

End of Document

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# EXHIBIT 3

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 7. Planning and Land Use (Refs & Annos)  
Division 2. Subdivisions (Refs & Annos)  
Chapter 7. Enforcement and Judicial Review (Refs & Annos)  
Article 1. Prohibition and Penalty (Refs & Annos)

West's Ann.Cal.Gov.Code § 66499.31

§ 66499.31. Violations; punishment

Currentness

Each violation of this division by a person who is the subdivider or an owner of record, at the time of the violation, of property involved in the violation shall be punishable by imprisonment in the county jail not exceeding one year or in the state prison, by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment. Every other violation of this division is a misdemeanor.

**Credits**

(Added by Stats.1987, c. 799, § 3.)

Notes of Decisions (1)

West's Ann. Cal. Gov. Code § 66499.31, CA GOVT § 66499.31  
Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

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# EXHIBIT 4

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 7. Planning and Land Use (Refs & Annos)  
Division 2. Subdivisions (Refs & Annos)  
Chapter 6. Reversions and Exclusions (Refs & Annos)  
Article 1. Reversion to Acreage (Refs & Annos)

West's Ann.Cal.Gov.Code § 66499.20.3  
Formerly cited as CA GOVT § 66499.20 3/4

### § 66499.20.3. Merger of contiguous parcels under common ownership; ordinance

Effective: January 1, 2013

[Currentness](#)

A city or county may, by ordinance, authorize the merger of contiguous parcels under common ownership without reverting to acreage. The ordinance shall require the recordation of an instrument evidencing the merger.

#### Credits

(Formerly § 66499.20 ¾, added by Stats.1982, c. 87, § 27, eff. March 1, 1982. Renumbered § 66499.20.3 and amended by Stats.2012, c. 162 (S.B.1171), § 78.)

#### Notes of Decisions (1)

West's Ann. Cal. Gov. Code § 66499.20.3, CA GOVT § 66499.20.3  
Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

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# EXHIBIT 5

90501.01 - Single base zoning area.

Every lot or parcel of land or portion thereof within the unincorporated areas of the county of Imperial shall be classified in only one of the base zoning areas established in this section.

**EXCEPTION:**

Parcels greater than forty (40) acres in net area may be divided by zoning district boundaries (A-2/A-3 Traffic corridor). Parcels less than forty (40) acres net and currently divided by a zoning boundary shall have the larger of the current designation apply to the entire parcel. Where a zoning map shows two zones on the same parcel the parcel shall have the larger of the two zones applicable to the entire parcel regardless of the map depiction. Unless identified by a community/urban or specific plan area.

(Ord. No. 1565, §§ 3, 4, 12-15-20)

# EXHIBIT 6

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 7. Planning and Land Use (Refs & Annos)  
Division 1. Planning and Zoning (Refs & Annos)  
Chapter 4. Zoning Regulations (Refs & Annos)  
Article 2. Adoption of Regulations (Refs & Annos)

West's Ann. Cal. Gov. Code § 65856

§ 65856. Public hearing; exceptions

Currentness

(a) Upon receipt of the recommendation of the planning commission, the legislative body shall hold a public hearing. However, if the matter under consideration is an amendment to a zoning ordinance to change property from one zone to another, and the planning commission has recommended against the adoption of such amendment, the legislative body shall not be required to take any further action on the amendment unless otherwise provided by ordinance or unless an interested party requests a hearing by filing a written request with the clerk of the legislative body within five days after the planning commission files its recommendations with the legislative body.

(b) Notice of the hearing shall be given pursuant to [Section 65090](#).

**Credits**

(Added by Stats.1965, c. 1880, p. 4348, § 6. Amended by Stats.1984, c. 1009, § 23.)

[Notes of Decisions \(5\)](#)

West's Ann. Cal. Gov. Code § 65856, CA GOVT § 65856  
Current with all laws through Ch. 790 of 2025 Reg. Sess., and Governor's Reorganization Plan No. 1 of 2025.

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# EXHIBIT 7



VERSION: DRAFT  
MAY 22, 2025



# IMPERIAL VALLEY COMPUTER MANUFACTURING LLC, (DATA CENTER #1) FEASIBILITY STUDY

TRANSMISSION PLANNING



## EXECUTIVE SUMMARY

The Imperial Irrigation District (IID) received a request from Imperial Valley Computer Manufacturing LLC (Customer) for the interconnection of their Imperial Data Center Campus (Project) in the Imperial Valley. The facility's proposed Point of Interconnection (POI) to the IID System is at the 230kV 'S' line between IID's El Centro switching station (ECSS) and SDG&E's Imperial Valley substation. As part of this feasibility study, IID evaluated the interconnection of different load scenarios at 150 MW, 200 MW, 250 MW, and 500 MW to assess potential system impacts and infrastructure requirements. Commercial Operation Date (COD) is planned to be in service by January 2027.

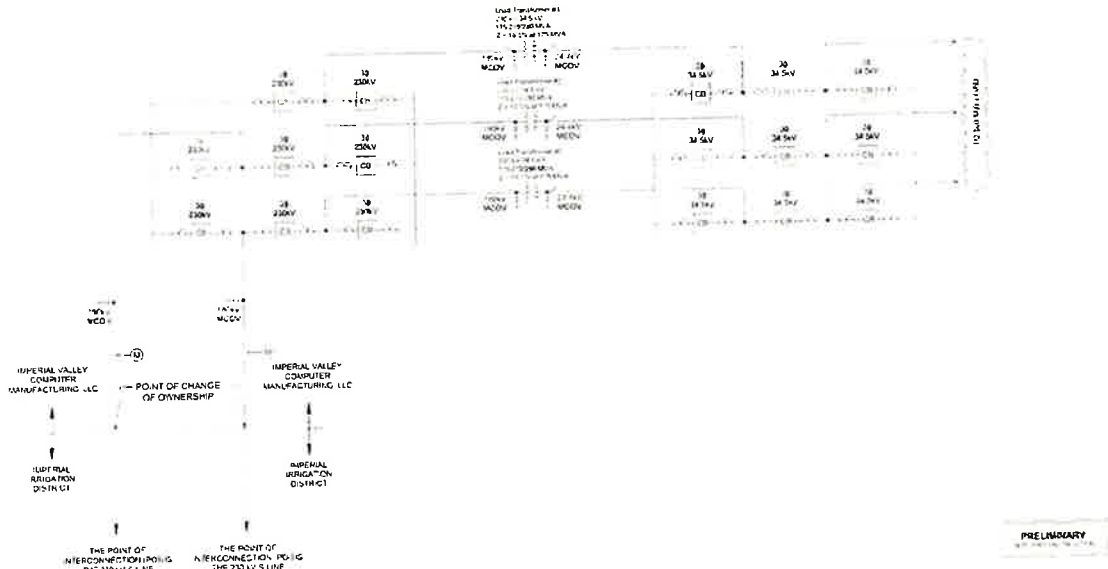
IID's Transmission Planning Department performed a high-level feasibility study to evaluate the potential impact of integrating this Project into the IID transmission system. The study included power flow (steady-state) analysis to identify any thermal violations caused solely by the addition of this load.

**Note:** IID assumed that the majority of the power required to serve this load would be imported. IID currently does not have the capability to reliably support a large-scale load requiring continuous 24-hour service. As such, this report does not represent a commitment by IID to serve the requested load.



**PROJECT DESCRIPTION**

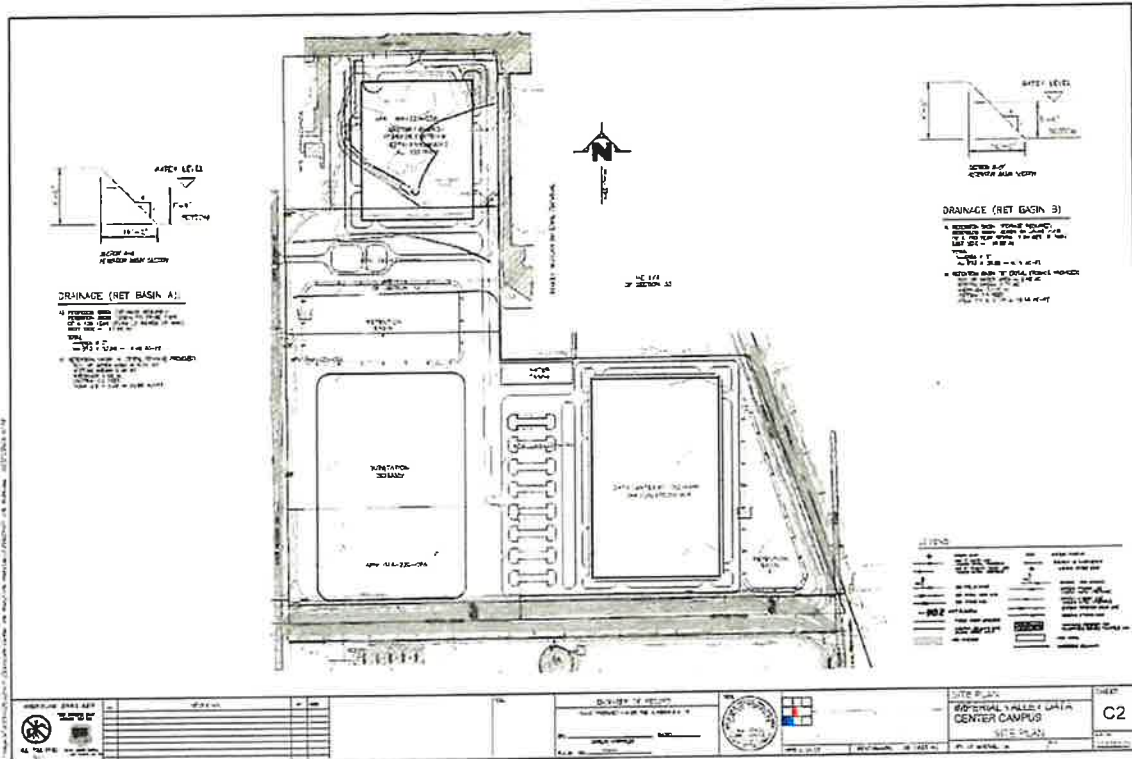
The proposed Project consists of a large-scale data center campus, upwards of 500MW, that is to be placed in a land parcel near the 230kV 'S' line between IID's El Centro switching station and SDG&E's Imperial Valley substation, which will serve as the POI for the Project. The Project had an assumed power factor of 0.95. The Figures 1, 2, & 3 below indicate the single line diagram, geographical location, and site plan of the Project.



**FIGURE 1: PROJECT SINGLE LINE DIAGRAM**



**FIGURE 2: PROJECT GEOGRAPHICAL LOCATION**



**FIGURE 3: PROJECT SITE PLAN**

IVCM DATA CENTER BREAKDOWN			
MW	MVAR	MVA	PF
150MW	49MVAR	158MVA	0.95
200MW	65MVAR	210MVA	0.95
250MW	82MVAR	263MVA	0.95
500MW	164MVAR	526MVA	0.95

**TABLE 1: PROJECT BREAKDOWN PER LOADING SCENARIO**



**STUDY DATA ASSUMPTIONS AND METHODOLOGY**

Various base cases were developed for this assessment with the intent to cover all critical operating scenarios, and to document all potential impacts that could be caused by the implementation of the Project. No queue generation was included unless the project has an executed Generator Interconnection Agreement (GIA), a Power Purchase Agreement (PPA), or a Tolling Agreement with the IID and the project is in accordance with section 4.0 of IID’s Planning Standards. Distribution projects were included with either an executed Joint Power Agreement (JPA) or system impact studies were finalized. The base cases were developed to represent the Heavy Summer operating conditions and the early Spring operating conditions. For the early Spring assessments, an early Spring time frame of 0600-0800 was analyzed.

Table 1 below lists the WECC approved base cases that were used to model the IID system for steady-state analysis:

WECC Seed Case	PSLF Base Case Name	Description
<b>Heavy Summer Peak Scenarios</b>		
25HS4a.sav	27HS_IVCM_Peak_pre.sav	2027 Heavy Summer without Project (pre-case)
	27HS_IVCM_150MW_Peak.sav	2027 Heavy Summer with Project (150MW)
	27HS_IVCM_200MW_Peak.sav	2027 Heavy Summer with Project (200MW)
	27HS_IVCM_250MW_Peak.sav	2027 Heavy Summer with Project (250MW)
	27HS_IVCM_500MW_Peak.sav	2027 Heavy Summer with Project (500MW)
<b>Heavy Summer Solar Reduced Scenarios</b>		
25HS4a.sav	27HS_IVCM_Solar_Reduced_pre.sav	2027 Heavy Summer without Project (pre-case); 20% solar
	27HS_IVCM_150MW_Solar_Reduced.sav	2027 Heavy Summer with Project (150MW); 20% solar
	27HS_IVCM_200MW_Solar_Reduced.sav	2027 Heavy Summer with Project (200MW); 20% solar
	27HS_IVCM_250MW_Solar_Reduced.sav	2027 Heavy Summer with Project (250MW); 20% solar
	27HS_IVCM_500MW_Solar_Reduced.sav	2027 Heavy Summer with Project (500MW); 20% solar
<b>Light Spring Early Morning Solar Reduced Scenarios</b>		
26LSP15a.sav	27LSP_IVCM_Solar_Reduced_pre.sav	2027 Light Spring without Project (pre-case); 40% solar
	27LSP_IVCM_150MW_Solar_Reduced.sav	2027 Light Spring with Project (150MW); 40% solar
	27LSP_IVCM_200MW_Solar_Reduced.sav	2027 Light Spring with Project (200MW); 40% solar
	27LSP_IVCM_250MW_Solar_Reduced.sav	2027 Light Spring with Project (250MW); 40% solar
	27LSP_IVCM_500MW_Solar_Reduced.sav	2027 Light Spring with Project (500MW); 40% solar

TABLE 2: SUMMARY OF BASE CASES ANALYZED

The GE PSLF version 23.0.8.2 software was used to analyze the pre and post Project study cases, with respect to the North American Electric Reliability Corporation (NERC) revised NERC TPL-001-5.1 standard, reflecting the use of P0-P7 outage categories and the corresponding WECC system performance criteria. GE PSLF was also used to check for system performance criteria violations in each of the post-Project cases when comparing to the corresponding pre-Project case. GE ProvisoHD was utilized to accumulate the power flow results in order to facilitate the comparison between pre and post Project cases. The base cases developed are designed to reflect the IID electrical system via loads, resources, topology and conditions expected when the project starts operation. While it is impossible to study all the IID transmission system flows and generation levels during all seasons, these pre-Project base cases represent extreme generation and transmission flows that will potentially expose any transmission constraints at the POI. However, the IID cannot guarantee that the Project can operate at its maximum rating year-round without impacting the transmission system, during times and seasons not studied.



### **Steady State Contingency Analysis:**

The assessment considered all of IID's credible single and multiple contingencies, as well as the most severe multiple contingencies within the IID system. External contingencies that are known to cause the most severe impacts to the IID transmission system were analyzed also. The scope of the steady-state analysis consisted of thermal, voltage magnitude and angle difference violations. The full suite of NERC standard TPL-001-5.1 contingency sets, P1-P7, was analyzed.

### **STUDY RESULTS AND CONCLUSION**

The Imperial Irrigation District (IID) conducted a high-level feasibility study for the proposed Project at various loading levels, with the POI located on the 230kV 'S' Line between IID's El Centro substation and SDG&E's Imperial Valley substation. The study evaluated multiple loading and generation scenarios for the Project's target year, using Heavy Summer and Light Spring cases. Below are the findings and results for each loading scenario:

#### **150 MW load**

- Results showed there were no thermal violations in IID's transmission system under P0-P7 contingencies. Project did not cause any buses to experience voltage exceedances or deviations.

#### **200 MW load**

- Results showed there were no thermal violations in IID's transmission system under P0-P7 contingencies. Project did not cause any buses to experience voltage exceedances or deviations.

#### **250 MW load**

- Results showed there were no thermal violations in IID's transmission system under P0-P7 contingencies. Project did not cause any buses to experience voltage exceedances or deviations.

#### **500 MW load**

- Thermal and voltage violations were found under the following outage:
  - P1: Loss of 230kV 'S' Line between 230kV Imperial Valley Substation and 230kV IVCN Substation.
- The outage mentioned above shows the Project poses a significant risk of voltage collapse due to its heavy reliance on imported power and the limited transmission capacity of IID's system to support such demand. In order to avoid this risk and for the project to be feasible, a new independent 230kV circuit from Imperial Valley Substation to IVCN Substation will be needed.

Please note that this is based on high-level assumptions and does not represent the final results of the study, as conceptual models and designs were used to verify that the proposed maximum output at the point of interconnection is feasible.

# EXHIBIT 8



VERSION: DRAFT  
JULY 25, 2025



# IMPERIAL VALLEY COMPUTER MANUFACTURING LLC, (DATA CENTER #1) SYSTEM IMPACT STUDY

TRANSMISSION PLANNING

7/25/2025

IMPERIAL VALLEY COMPUTER MANUFACTURING LLC, (DATA CENTER #1)  
SYSTEM IMPACT STUDY

1



**TABLE OF CONTENTS**

1. Executive Summary.....	4
2. Project Description.....	5
3. Study Data Assumptions and Methodology .....	7
3.1 Base Cases and Assumptions .....	7
3.2 Methodology.....	8
3.2.1 Steady State Contingency Analysis.....	8
3.2.2 Transient Stability Analysis.....	8
3.2.3 Post-Transient Analysis (Reactive Margin) .....	10
3.3.1 Power Flow Modeling .....	10
3.3.2 Dynamic Models .....	11
3.3.3 Remedial Action Scheme Modeling.....	11
3.4 System Upgrades/Mitigations.....	12
4. Study Criteria.....	12
4.1 NERC Reliability Standards.....	12
4.2 WECC Reliability Criteria .....	12
4.3 Steady State Study Criteria .....	12
4.3.1 Normal Overloads .....	13
4.3.2 Emergency Overloads .....	13
4.3.3 Voltage Criteria.....	14
4.3 Transient Stability Data.....	14
4.4.1 Bus Voltage.....	14
4.4.2 Bus Frequency.....	16
4.5 Reactive Margin Criteria .....	16
5. Study Results.....	16
5.1 Power Flow Analysis:.....	16
5.1.1 (2027) Heavy Summer Peak.....	17
5.1.2 (2027) Heavy Summer Peak Solar Reduced 20% .....	17
5.1.3 (2027) Light Spring Solar Reduced 40% .....	17
5.2 Transient Stability Analysis .....	17
5.2.1 (2027) Heavy Summer Transient Stability Results.....	17
5.2.2 (2027) Heavy Summer Solar Reduced Transient Stability Results.....	17
5.2.3 (2027) Light Spring Solar Reduced Transient Stability Results .....	17
5.3 Post Transient Stability and Reactive Power Margin: Heavy Summer .....	17
7/25/2025 IMPERIAL VALLEY COMPUTER MANUFACTURING LLC, (DATA CENTER #1)	2
SYSTEM IMPACT STUDY	



6. Conclusion.....18



## 1. EXECUTIVE SUMMARY

The Imperial Irrigation District (IID) received a request from Imperial Valley Computer Manufacturing LLC (Customer) for the interconnection of their Imperial Data Center Campus (Project) in the Imperial Valley. The facility's proposed Point of Interconnection (POI) to the IID System is at the 230kV 'S' line between IID's El Centro switching station (ECSS) and San Diego Gas & Electric's (SDG&E's) Imperial Valley substation. As part of this study, IID evaluated the interconnection of 250 MW of load to assess potential system impacts and infrastructure requirements. Commercial Operation Date (COD) is planned to be in service by the year 2027.

IID's Transmission Planning Department performed a System Impact Study (SIS) to evaluate the potential impact of integrating this Project into the IID transmission system. The study included power flow (steady-state), transient stability, and post-transient stability analysis. The scope of the analyses is to identify the transmission system impacts caused solely by the addition of the project and reinforcements necessary to mitigate the adverse impact of the Project under different system operating conditions. The following scenarios were studied accordingly:

- 2027 Heavy Summer
- 2027 Heavy Summer (Solar reduced)
- 2027 Light Spring (Early morning solar reduced)

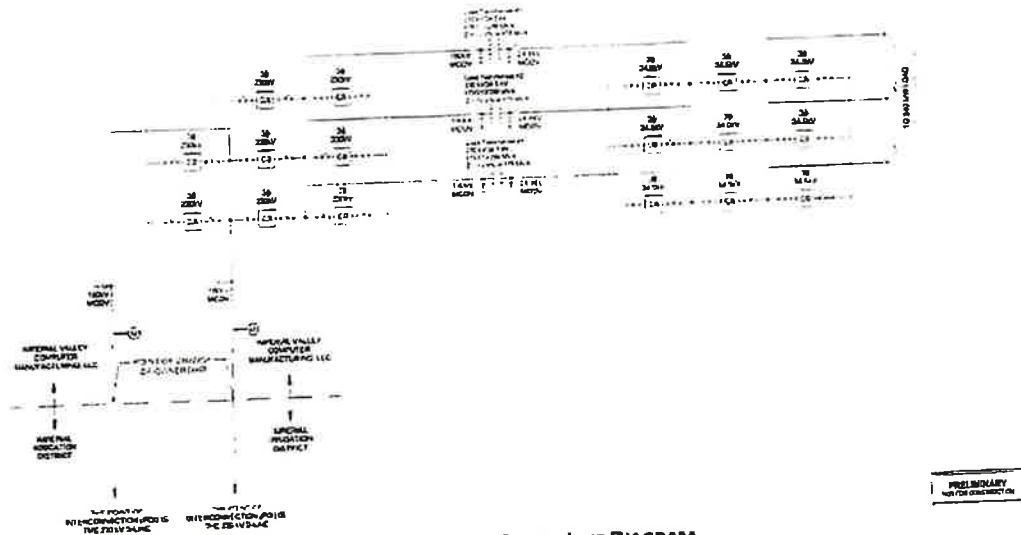
Each scenario includes two versions, a pre-case and a post-case including the project load. All cases include all generation with an executed Generation Interconnection Agreement (GIA), planned IID transmission upgrades, as well as anticipated distribution projects as identified in the IID 2024-33 Capital Investment plan. The project was modeled as a new load with a value of 250 MW for the year 2027. The analysis tested the impact of the load addition on the reliability of IID's electrical system.

**Note:** IID Transmission Planning assumed that the majority of the power required to serve this load would be imported for the purposes of this study. IID currently does not have the capability to reliably support a large-scale load requiring continuous 24-hour service with existing resources. As such, this report does not represent a commitment by IID to serve the requested load.



**2. PROJECT DESCRIPTION**

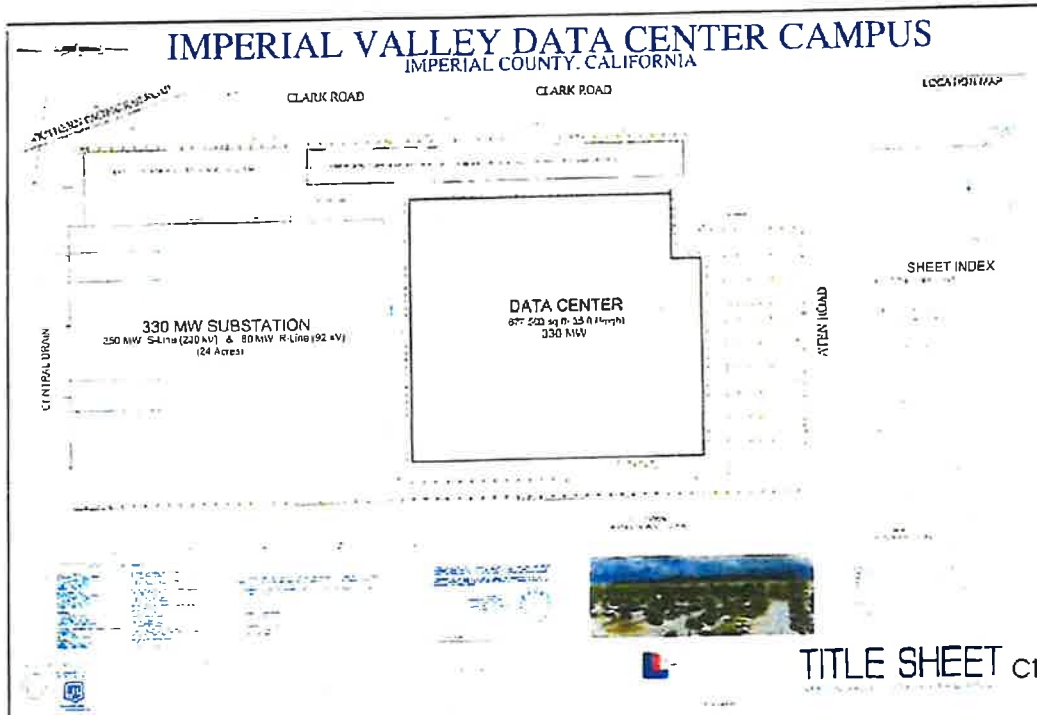
The proposed Project consists of a large-scale data center campus, upwards of 250MW, that is to be placed in a land parcel near the 230kV 'S' line between IID's El Centro switching station and SDG&E's Imperial Valley substation, which will serve as the POI for the Project. The Project had an assumed power factor of 0.95. The Figures 1, 2, & 3 below indicate the single line diagram, geographical location, and site plan of the Project.



\*Note: Based on a feasibility study, the initial proposed project at 500MW has now been reduced to 250MW. The single line has not been updated and serves as a high-level electrical representation.



**FIGURE 2: PROJECT GEOGRAPHICAL LOCATION**



**FIGURE 3: PROJECT SITE PLAN**



### 3. STUDY DATA ASSUMPTIONS AND METHODOLOGY

#### 3.1 BASE CASES AND ASSUMPTIONS

Various base cases were developed for this assessment with the intent to cover all critical operating scenarios, and to document all potential impacts that could be caused by the implementation of the Project. Any generation that had an executed Generation Interconnection Agreement (GIA), a Power Purchase Agreement (PPA), or a Tolling Agreement with the IID, and the project is in accordance with section 4.0 of IID's Planning Standards was included in the base cases. Distribution projects were included with either an executed Joint Power Agreement (JPA) or a finalized system impact study. The base cases were developed to represent the Heavy Summer operating conditions, representing high load with high generation output. A Heavy Summer sensitivity during the time frame of 1900-2100, representing high load with reduced solar output. Finally, Light Spring sensitivity, during the time frame of 0600-0800, representing moderate load with reduced solar output.

Table 1 below lists the WECC approved base cases that were used to model the IID system:

WECC Seed Case	PSLF Base Case Name	Description
Heavy Summer Peak Scenarios		
25HS4a.sav	27HS_IVCM_Peak_pre.sav	2027 Heavy Summer without Project (pre-case)
	27HS_IVCM_250MW_Peak.sav	2027 Heavy Summer with Project (250MW)
Heavy Summer Solar Reduced Scenarios		
25HS4a.sav	27HS_IVCM_Solar_Reduced_pre.sav	2027 Heavy Summer without Project (pre-case); 20% solar
	27HS_IVCM_250MW_Solar_Reduced.sav	2027 Heavy Summer with Project (250MW); 20% solar
Light Spring Early Morning Solar Reduced Scenarios		
26LSP1Sa.sav	27LSP_IVCM_Solar_Reduced_pre.sav	2027 Light Spring without Project (pre-case); 40% solar
	27LSP_IVCM_250MW_Solar_Reduced.sav	2027 Light Spring with Project (250MW); 40% solar

TABLE 1: SUMMARY OF BASE CASES ANALYZED

The GE PSLF version 23.0.8.2 software was used to analyze the pre and post Project study cases, with respect to the North American Electric Reliability Corporation (NERC) revised NERC TPL-001-5.1 standard, reflecting the use of P0-P7 outage categories and the corresponding WECC system performance criteria. GE PSLF was also used to check for system performance criteria violations in each of the post-Project cases when comparing to the corresponding pre-Project case. GE ProvisoHD was utilized to accumulate the power flow results in order to facilitate the comparison between pre and post Project cases. The base cases developed are designed to reflect the IID electrical system via loads, resources, topology and conditions expected when the project starts operation. While it is impossible to study all the IID transmission system flows and generation levels during all seasons, these pre-Project base cases represent extreme generation and transmission flows that will potentially expose any transmission constraints at the POI. However, the IID cannot guarantee that the Project can operate at its maximum rating year-round without impacting the transmission system, during times and seasons not studied.



### 3.2 METHODOLOGY

Steady state, transient stability and post-transient reactive margin analysis were performed for this assessment. Table 2 describes the type of analysis completed on each base case.

PSLF Base Case Name	Steady State	Transient Stability	Post Transient
27HS_IVCM_Peak_pre.sav	X	X	X
27HS_IVCM_250MW_Peak.sav	X	X	X
27HS_IVCM_Solar_Reduced_pre.sav	X	X	
27HS_IVCM_250MW_Solar_Reduced.sav	X	X	
27LSP_IVCM_Solar_Reduced_pre.sav	X	X	
27LSP_IVCM_250MW_Solar_Reduced.sav	X	X	

TABLE 2: DESCRIPTION OF THE ANALYSIS COMPLETED ON DEVELOPED BASE CASES VIA PSLF

#### 3.2.1 Steady State Contingency Analysis

The assessment considered all of IID's credible single and multiple contingencies, as well as the most severe multiple contingencies within the IID system. External contingencies that are known to cause the most severe impacts to the IID transmission system were analyzed also. The scope of the steady-state analysis consisted of thermal, voltage magnitude and angle difference violations. The full suite of NERC standard TPL-001-5.1 contingency sets, P1-P7, was analyzed.

#### 3.2.2 Transient Stability Analysis

Transient stability analysis is a time-based simulation that assesses the performance of the power system shortly before, during, and after a transient disturbance. Initial conditions are characterized by the power flow case and model equations are used to simulate expected behavior from dynamic elements, such as generators and loads over time. Bus voltage and frequency plots are developed with an emphasis on all BES buses, and various non-BES buses in the IID system. These buses are the following:

##### ➤ **BES Buses**

- Alhambra Switching Station 161kV
- Arkansas Switching Station 161kV
- Avenue 58 161kV
- Calipatria Switching Station 230kV
- Coachella Switching 92kV
- Coachella Valley 92kV
- Coachella Valley 161kV
- Coachella Valley 230kV
- El Centro Switching Station 161kV
- El Cento Switching Station 230kV
- El Centro Switching Station 92kV
- Highline 230kV
- Hudson Ranch 230kV
- Midway 230kV
- Midway 92kV
- Nelson Switching Station 230kV
- Niland 161kV
- Pilot Knob 161kV
- Ramon 230kV
- Sonora Switching Station 230kV
- Yucca 161kV



▪ **Non-BES Buses**

- Ave 42 92kV
- Niland 92kV
- Ramon 92kV
- Ave. 58 92kV
- El Centro 34.5kV
- Blythe 161kV

Bus voltage plots provide a means of detecting out-of-step conditions and are useful to assess the magnitude and duration of post-disturbance voltage dips and peak-to-peak voltage oscillations. The voltage plots also indicate system damping response and the expected bus voltage following the disturbance. Bus frequency plots provide expected magnitude and duration of post-disturbance frequency swings, as well as indicating possible over-frequency or under-frequency conditions. Additionally, IID utilizes a dynamic criteria EPCL script to assist in evaluating if monitored buses meet WECC regional criteria as shown in Figures 4 and 5. The selected critical contingencies listed below in Table 3 were simulated for the transient stability analysis. This contingency list contains the most severe internal and external contingencies.

#	IID Critical Contingencies
1	P1 - Colorado River-Red Bluff 500kV Line Fault
2	P1 - Coachella Valley-Mirage 230kV Line Fault
3	P1 - Coachella Valley-Ramon 230kV Line Fault
4	P1 - Devers-Mirage 230kV Line Fault
5	P1 - Devers-Red Bluff 500kV Line Fault
6	P1 - El Centro Bank#4
7	P1 - Eco-Miguel 500kV Line Fault
8	P1 - El Centro-Mall 92kV Line Fault
9	P1 - El Centro Steam #2
10	P1 - Hassayampa-Hoodoowash 500kV Line Fault
11	P1 - Hassayampa-North Gila 500kV Line Fault
12	P1 - Imperial Valley-Eco 500kV Line Fault
13	P1 - Midway-Coachella Valley 230kV Circuit 1 Line Fault
14	P1 - Midway 1 Tap-Midway 92kV Circuit 1 Line Fault
15	P1 - N. Gila-Imperial Valley 500kV Line Fault
16	P1 - Paloverde-Colorado River 500kV Line Fault
17	P1 - Ramon Bank #1
18	P1 - Ramon-Mirage 230kV Line Fault
19	P1 - El Centro-Imperial Valley Data Center 230kV Line Fault
20	P1 - Imperial Valley Data Center-Imperial Valley 230kV Line Fault
21	P2 - Ave. 58 161kV Bus Fault
22	P2 - Colorado River Bus Fault
23	P2 - El Centro Bus #1 92kV Bus Fault
24	P2 - El Centro Bus #2 92kV Bus Fault



25	P2 - Midway 230kV Bus Fault
26	P6 - Coachella Valley-Mirage & Ramon-Mirage 230kV Line Fault
27	P7 - Nevers-Mirage Circuit 1&2 230kV Line Fault
28	P7 - Coachella Valley-Mirage & Coachella Valley-Ramon 230kV Line Fault
29	P7 - Coachella Valley-Midway #1 and #2 230kV Line Fault

TABLE 3: CRITICAL CONTINGENCIES USED FOR TRANSIENT AND POST-TRANSIENT ANALYSIS

### 3.2.3 Post-Transient Analysis (Reactive Margin)

Post-transient stability analysis was performed on selected buses in the IID transmission system following selected, most severe, and critical outages. Moreover, governor power flow tools were used for the analysis. For each bus assessed, a synchronous condenser was modeled to determine the highest reactive power margin available on that bus. All BES and non-BES buses were monitored. During post-transient simulations, the following assumptions were used:

- Loads were modeled as constant MVAs, during the post-transient time frame
- Reactive power output of the system swing generator was limited to its maximum capability
- No manual operator intervention was allowed to increase generator MVAR flow
- Remedial actions, such as generator dropping, load shedding, or blocking of automatic generator control were not considered for single outages

Positive reactive margin is desired at all of the buses. For the IID transmission system, the post-transient stability analysis criteria are the following:

- For transfer paths, all P0-P1 events shall demonstrate a positive reactive power margin at a minimum of 105 percent of transfer path flow.
- For transfer paths, all P2-P7 events shall demonstrate a positive reactive power margin at a minimum of 102.5 percent of transfer path flow.
- For load areas, all P0-P1 events shall demonstrate a positive reactive power margin at a minimum of 105 percent of forecasted peak load.
- For load areas, all P2-P7 events shall demonstrate a positive reactive power margin at a minimum of 102.5 percent of forecasted peak load.

Selected critical contingencies listed above in Table 3 were simulated for post-transient stability analysis. These contingencies included the most severe internal and external contingencies.

## 3.3 MODELING

The following section document the modeling methods used to represent the project in steady state and dynamics analyses.

### 3.3.1 Power Flow Modeling

Equivalent load of project:

- A 250MW equivalent load on the 230kV IVCM data center bus.



### 3.3.2 Dynamic Models

WECC approved models from the GE PSLF library was used to represent the Project. For this Project, dynamic stability models included models for the following:

- Commercial and Industrial Load
  - WECC Composite Load Model: **cmpldw**

### 3.3.3 Remedial Action Scheme Modeling

Various Remedial Action Schemes (RAS) were modeled in conjunction with the various projects included in the base cases. A summary of the internal automatic actions taken are described below:

- South R-Line RAS: Open breaker "RNO" at Dixieland will send a trip signal to Ocotillo Wells Solar.
- North R-Line RAS: Loss of Anza to Oasis and Ave 58 will send a trip signal to Seville 3.
- "K" line SPS: Loss of the "K" line, "N" Line, and the loss of the Niland 92/161kV transformer will send a trip signal to Colgreen.
- Path 42 RAS:
  - Loss of the 230kV "KN" line between Coachella Valley and Mirage and the 230kV "KS" line between Coachella Valley and Ramon will send a trip signal to the identified generation.
  - Loss of the 230kV "KN" line between Coachella Valley and Mirage and the 230kV "KS" line between Ramon and Mirage will send a trip signal to the identified generation.
  - Devers-Mirage 1 & 2: Loss of circuit numbers 1 and 2 will send a trip signal to the identified generation.
- Path 42 RAS N-1:
  - Loss of the 230kV "KN" line between Coachella Valley and Mirage will send a trip signal to the identified generation.
  - Loss of the 230kV "KS" line between Coachella Valley and Ramon will send a trip signal to the identified generation.
  - Loss of the 230kV "KS" line between Ramon and Mirage will send a trip signal to the identified generation.
  - Loss of the 230kV "KN" line between Coachella Valley and Midway will send a trip signal to the identified generation.
  - Loss of the 230kV "KS" line between Coachella Valley and Midway will send a trip signal to the identified generation.
- Coachella Valley – Midway RAS:
  - Loss of the 230kV "KN" line between Coachella Valley and Midway will send a trip signal to the identified generation.
  - Loss of the 230kV "KS" line between Coachella Valley and Midway will send a trip signal to the identified generation.
- Midway Transformer RAS N-1:
  - Loss of either bank #1 or bank #2 92/230kV Transformer at Midway will send a trip signal to the identified generation.
- El Centro 161kV Bus RAS N-1:
  - Loss of the 161kV Bus at El Centro Switching will send a trip signal to the identified generation.



### 3.4 SYSTEM UPGRADES/MITIGATIONS

- Southern 92kV R-Line Upgraded – Q2 2026 (Ocotillo Mitigation)
- Coachella Valley Switching Station Upgrade – Q2 2026 (TPL-001)
- Ramon-Mirage 230kV Circuit 2 – Q4 2028 (TPL-001)
- 135MVAR Reactive Support at Ramon 230kV – Q2 2026 (IPP Mitigation)
- ECSS RAS N-1 – Q3 2025 (IPP Mitigation)
- Northern 92kV R-Line Upgraded – Q4 2026 (IPP Mitigation)
- Midway Transformer RAS – Q4 2025 (IPP Mitigation)

### 4. STUDY CRITERIA

Grid Reliability Criteria, which incorporates the WECC and NERC planning criteria, was used for this assessment. IID's standards and procedures were followed during the study process.

#### 4.1 NERC RELIABILITY STANDARDS

The need for transmission upgrades and additions was determined in accordance with NERC Reliability Standards. These standards set forth criteria for system performance requirements, which must be met under specific set of operating conditions. The following NERC Reliability Standards are applicable to the Transmission Operators (TOs) as registered NERC Planning Authorities, Transmission Planners, and are the primary standards for the interconnection of new facilities and system performance:

- FAC-001: Facility Connection Requirements
- FAC-002: Coordination of Plans for New Facilities
- TPL-001-5.1: Transmission System Planning Performance Requirements

#### 4.2 WECC RELIABILITY CRITERIA

The WECC TPL system performance criteria, TPL-001-WECC-CRT-4, sets forth additional requirements that must be met under various, but specific set of operating conditions and may be applicable to the TOs as Planning Authorities.

#### 4.3 STEADY STATE STUDY CRITERIA

The system performance, with the addition of the Project, was evaluated under normal conditions and following losses of a single or multiple Bulk Electric System (BES) element(s), as defined by the applicable reliability standards and criteria. Figure 4: Listing of TPL-001-5.1 P1-P7 contingency descriptions summarizes the contingencies per NERC Reliability Standards, and WECC Regional Criteria.



Category	Initial Condition	Event <sup>1</sup>	Fault Type <sup>1</sup>	BES Level <sup>2</sup>	Interruption of Firm Transmission Service Allowed <sup>3</sup>	Non-Consequential Load Loss Allowed
P0 No Contingency	Normal System	None	N/A	EHV, HV	No	No
P1 Single Contingency	Normal System	Loss of one of the following: 1. Generator 2. Transmission Circuit 3. Transformer <sup>4</sup> 4. Shunt Device <sup>4</sup> 5. Single Pole of a DC line	3Ø  SLG	EHV, HV	No <sup>5</sup>	No <sup>6</sup>
P2 Single Contingency	Normal System	1. Opening of a line section w/o a fault <sup>7</sup>	N/A	EHV, HV	No <sup>5</sup>	No <sup>7</sup>
		2. Bus Section Fault	SLG	EHV HV	No <sup>5</sup> Yes	No Yes
		3. Internal Breaker Fault <sup>8</sup> (non-Bus-to-Breaker)	SLG	EHV HV	No <sup>5</sup> Yes	No Yes
		4. Internal Breaker Fault (Bus-to-Breaker) <sup>8</sup>	SLG	EHV, HV	Yes	Yes
P3 Multiple Contingency	Loss of generator unit followed by System adjustments <sup>9</sup>	Loss of one of the following: 1. Generator 2. Transmission Circuit 3. Transformer <sup>4</sup> 4. Shunt Device <sup>4</sup> 5. Single pole of a DC line	3Ø  SLG	EHV, HV	No <sup>5</sup>	No <sup>6</sup>
		Loss of multiple elements caused by a stuck breaker <sup>10</sup> (Bus-to-Breaker) attempting to clear a fault on one of the following: 1. Generator 2. Transmission Circuit 3. Transformer <sup>4</sup> 4. Shunt Device <sup>4</sup> 5. Bus Section	SLG	EHV HV	No <sup>5</sup> Yes	No Yes
P4 Multiple Contingency (Fault plus stuck breaker <sup>10</sup> )	Normal System	Loss of multiple elements caused by a stuck breaker <sup>10</sup> (Bus-to-Breaker) attempting to clear a fault on the associated bus	SLG	EHV, HV	Yes	Yes
		Delayed Fault Clearing due to the failure of a non-redundant relay <sup>11</sup> protecting the faulted element to operate as designed, for one of the following: 1. Generator 2. Transmission Circuit 3. Transformer <sup>4</sup> 4. Shunt Device <sup>4</sup> 5. Bus Section	SLG	EHV HV	No <sup>5</sup> Yes	No Yes
P6 Multiple Contingency (Two overlapping single)	Loss of one of the following followed by System adjustments <sup>9</sup> 1. Transmission Circuit 2. Transformer <sup>4</sup> 3. Shunt Device <sup>4</sup> 4. Single pole of a DC line	Loss of one of the following: 1. Transmission Circuit 2. Transformer <sup>4</sup> 3. Shunt Device <sup>4</sup>	3Ø	EHV, HV	Yes	Yes
		4. Single pole of a DC line	SLG	EHV, HV	Yes	Yes
P7 Multiple Contingency (Common Structure)	Normal System	The loss of: 1. Any two adjacent (vertically or horizontally) circuits on common structure <sup>11</sup> 2. Loss of a bipolar DC line	SLG	EHV, HV	Yes	Yes

FIGURE 4: LISTING OF TPL-001-5.1 P1-P7 CONTINGENCY DESCRIPTIONS

#### 4.3.1 Normal Overloads

Normal overloads are those that exceed 100 percent of normal facility rating under NERC Category P0 conditions (no contingencies). Normal overloads are identified in the Reliability Study power flow analysis, in accordance with the Reliability Standard, TPL-001-5.1. It is required that loading of all transmission system facilities be within their normal ratings under NERC Category P0 conditions.

#### 4.3.2 Emergency Overloads

Emergency overloads are those that exceed 100 percent of emergency ratings under NERC and WECC Category P1-P7 contingency conditions. Emergency overloads are identified in the Reliability Study power flow analysis in accordance with Reliability Standards, TPL-001-5.1. It is required that loading of all transmission system facilities be within their emergency ratings under the Category P1-P7 contingency conditions.



#### 4.3.3 Voltage Criteria

A voltage criteria violation occurs if a bus within the transmission system, of each TO, fails to meet the requirements defined in Table 4. For Voltage Criteria, bus voltages are relative to the nominal bus voltages of the system under study.

Voltage Level	Normal Conditions (P0)		Contingency Conditions (P1-P7)		Voltage Deviation	
	VMIN (p.u.)	VMAX (p.u.)	VMIN (p.u.)	VMAX (p.u.)	Load Buses (P1)	Non-Load (P1) & All Buses (P2-P7)
≤200kV	0.95	1.05	0.9	1.1	≤8%	≤10%
≥200kV	0.95	1.05	0.9	1.1	≤8%	≤10%
≥500kV	0.95	1.05	0.9	1.1	≤8%	≤10%

TABLE 1: VOLTAGE CRITERIA

The maximum total voltage deviation for P3 and P6 events will be measured from the voltage that exists after the initial condition and therefore takes into consideration only voltage deviation due to the second event. Buses within the IID controlled grid that cannot meet the requirements in Table 4 will be further investigated.

#### 4.3 TRANSIENT STABILITY DATA

Transient stability analysis is a time-based simulation that assesses the performance of the power system shortly before, during, and quickly following a contingency. Transient stability studies were performed to verify the stability of the system following a system fault. Transient stability analysis was performed based on the WECC Disturbance-Performance Criteria, for selected system contingencies, using Version 23.0.8.2 of the GE PSLF software. Transient stability contingencies were simulated for a minimum of 10 seconds, including 1 second of pre-disturbance data. Unless specified, all faults were modeled as 3-phases with 4 cycles of breaker clearing time. System damping was assessed visually with the aid of stability plots.

##### 4.4.1 Bus Voltage

Bus voltage plots provide a means of detecting out-of-step conditions and are useful to assess the magnitude and duration of post-disturbance voltage dips and peak-to-peak voltage oscillations. The voltage plots also indicate system damping response and the expected bus voltage following the disturbance. WECC Regional Criteria, TPL-001-WECC-CRT-4, requires that the following criteria be applied:

- Following fault clearing, the voltage shall recover to 80% of the pre-contingency voltage within 20 seconds of the initiating event for all P1 through P7 events, and for each applicable BES bus serving load.
- Following fault clearing and voltage recovery above 80%, voltage at each applicable BES bus serving load shall neither dip below pre-contingency voltage, for more than 30 cycles, nor remain below 80% of pre-contingency voltage for more than 2 seconds, for all P1 through P7 events.
- For contingencies without a fault (P2.1 category event), voltage dips at each applicable BES bus serving load shall neither dip below 70% of pre-contingency voltage, for more than 30 cycles, nor remain below 80% of pre-contingency voltage for more than two seconds.
- All oscillations that do not show positive damping within 30-seconds, after the start of the studied event, shall be deemed unstable.



- Figure 5 and 6 represent the acceptable recovery trajectory.

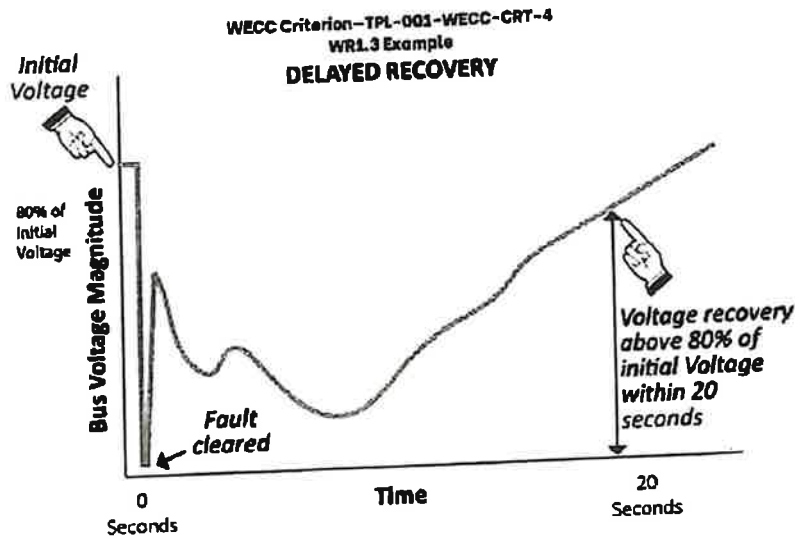


FIGURE 5: WECC DIAGRAM REPRESENTING ADEQUATE VOLTAGE RECOVERY (DELAYED)

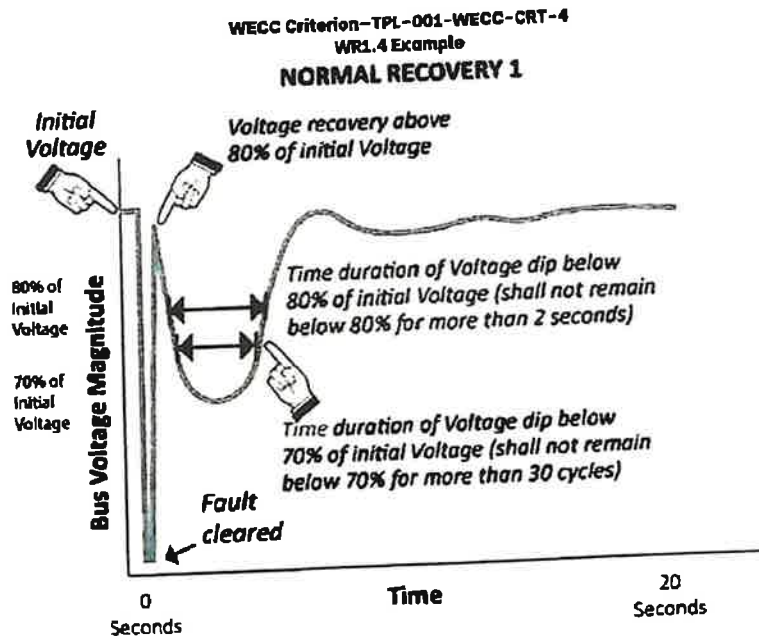


FIGURE 6: WECC DIAGRAM REPRESENTING ADEQUATE VOLTAGE RECOVERY (NORMAL)

7/25/2025



#### 4.4.2 Bus Frequency

Bus frequency plots provide expected magnitude and duration of post-disturbance frequency swings, and possible over-frequency or under-frequency conditions. WECC Regional Criteria, TPL-001-WECC-CRT-4, requires that the following be applied:

- All oscillations that do not show positive damping, within 30-seconds, after the start of the studied event, shall be deemed unstable.

#### 4.5 REACTIVE MARGIN CRITERIA

Post-transient stability analysis was performed on selected buses in the IID transmission system, following selected critical outages. For each bus assessed, a synchronous condenser was modeled to extract reactive power, until the point where voltage collapse occurs. The maximum reactive power consumed prior to the voltage collapse is determined. Positive reactive margin is desired at all buses.

### 5. STUDY RESULTS

This System impact study modeled the new load with a total of 250MW for summer and light spring scenarios. The following analysis tested the impact of the load addition on the reliability of IID's electrical system.

#### 5.1 POWER FLOW ANALYSIS:

Power flow analysis was performed using the base cases identified in Table 1, under Section 3. System thermal and voltage performance were tested during normal and emergency (contingency) conditions, in order to compare pre-Project and post-Project scenarios. Identified impacts, if any, are caused solely by this Project.

Thermal and voltage performance of the system was evaluated for base cases under normal, (P0), single element outage, (P1, P2), and selected multiple element outages, (P3-P7). Thermal loadings were reported when a model transmission component was loaded above 95% of its continuous MVA rating, (P0), and above 95% of its emergency rating, (P1-P7). Generally, the concerns are raised when an element is found loaded above 100% of its normal or emergency rating; however, 95% was chosen to identify circuits that are also at the edge of an overload. Moreover, such circuits need to be closely monitored and can be placed as potential candidates for future upgrades.

Transmission voltage violations for normal, (P0), conditions were reported when per unit voltages were less than 0.95 or greater than 1.05. Transmission voltage violations, following single or multiple outages, were reported when per unit voltages were less than 0.90 or greater than 1.1. Voltage deviations were recorded whenever these deviations were greater than 8% for load serving buses and 10% non-load serving buses.

The steady state study results for each of the cases is described in the following sections, while the complete results can be found in Appendix B.



### 5.1.1 (2027) Heavy Summer Peak

#### 5.1.1.1 Voltage and Thermal Performance

- The project did not cause any buses in the base case to experience voltage exceedances or deviations with respect to the criteria on Table 4.
- The project did not cause thermal violations in IID's system.

### 5.1.2 (2027) Heavy Summer Peak Solar Reduced 20%

#### 5.1.2.1 Voltage and Thermal Performance

- The project did not cause any buses in the base case to experience voltage exceedances or deviations with respect to the criteria on Table 4.
- The project did not cause thermal violations in IID's system.

### 5.1.3 (2027) Light Spring Solar Reduced 40%

#### 5.1.3.1 Voltage and Thermal Performance

- The project did not cause any buses in the base case to experience voltage exceedances or deviations with respect to the criteria on Table 4.
- The project did not cause thermal violations in IID's system.

## 5.2 TRANSIENT STABILITY ANALYSIS

Transient stability was performed on the Heavy Summer and Light Spring pre- and post- Project base cases.

### 5.2.1 (2027) Heavy Summer Transient Stability Results

These simulation results show that the Project did not cause impacts on IID system stability under any of the simulated contingencies.

Refer to Appendix C for the 2027 Heavy Summer Transient pre and post stability plots.

### 5.2.2 (2027) Heavy Summer Solar Reduced Transient Stability Results

These simulation results show that the Project did not cause impacts on IID system stability under any of the simulated contingencies.

Refer to Appendix D for the 2027 Heavy Summer Solar Reduced transient pre and post stability plots.

### 5.2.3 (2027) Light Spring Solar Reduced Transient Stability Results

These simulation results show that the Project did not cause impacts on IID system stability under any of the simulated contingencies.

Refer to Appendix E for the 2027 Light Spring Solar Reduced transient pre and post stability plots.

## 5.3 POST TRANSIENT STABILITY AND REACTIVE POWER MARGIN: HEAVY SUMMER

Post-transient stability was performed on selected buses in IID transmission system following selected critical outages. Results show that the Project did not cause impacts on IID System reactive margin under any of the simulated contingencies

Refer to Appendix F for complete post-transient voltage (reactive margin) results.



## 6. CONCLUSION

The System Impact Study modeled the new load with a total of 250MW for summer and light spring scenarios. The following analysis tested the impact of the load addition on the reliability of IID's electrical system. The Project's POI is located on the 230kV 'S' Line between IID's El Centro substation and SDG&E's Imperial Valley substation. The study evaluated different seasons and generation scenarios for the Project's target year, using Heavy Summer and Light Spring cases. Below are the findings and results for this loading scenario:

### 250 MW load

- Results showed there were no thermal violations in IID's transmission system under P0-P7 contingencies. Project did not cause any buses to experience voltage exceedances or deviations.
- Results showed there were no transient stability violations in IID's transmission system under any of the simulated contingencies.

Study results show that this project can be deemed feasible. Please note that IID currently does not have the capability to reliably support a large-scale load requiring continuous 24-hour service. As such, this report does not represent a commitment by IID to serve the amount of requested load.

# EXHIBIT 9



# EESI

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# Data Centers and Water Consumption

By [Miguel Yañez-Barnuevo \(/authors/miguel-yanez\)](#) ✉ (mailto: [myanez@eesi.org](mailto:myanez@eesi.org))

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### Highlights:

- Data center developers are increasingly tapping into freshwater resources to quench the thirst of data centers, which is putting nearby communities at risk.
- Large data centers can consume up to 5 million gallons *per day*, equivalent to the water use of a town populated by 10,000 to 50,000 people.
- With larger and new AI-focused data centers, water consumption is increasing alongside energy usage and carbon emissions.
- Novel technologies like direct-to-chip cooling and immersion cooling can reduce water and energy usage by data centers.

Data centers have a thirst for water, and their rapid expansion threatens freshwater supplies. Only 3% of Earth's water is freshwater, and only 0.5% of all water (<https://www.eesi.org/articles/view/how-water-reuse-can-address-scarcity>) is accessible and safe for human consumption. Freshwater is critical for survival. On average, a human being can live without water for only three days (<https://www.medicalnewstoday.com/articles/325174#how-long-can-you-live-without-water>). Increasing drought and water shortages are reducing water availability (<https://www.eesi.org/articles/view/how-water-reuse-can-address-scarcity>). Meanwhile, data center developers are increasingly tapping into surface and underground aquifers to cool their facilities.

Data center water usage closely parallels energy usage and carbon emissions. As data centers use more energy for their typical data center operations and to meet AI requests, they consume larger amounts of water to cool their processor chips, so as to avoid overheating and potential damage. Similarly, as energy use increases in data centers, so do carbon emissions.

A medium-sized data center can consume up to roughly 110 million gallons of water (<https://www.npr.org/2022/08/30/1119938708/data-centers-backbone-of-the-digital-economy-face-water-scarcity-and-climate-ris>) per year for cooling purposes, equivalent to the annual water usage of approximately 1,000 households. Larger data centers can each "drink" up to 5 million gallons per day, or about 1.8 billion annually (<https://www.washingtonpost.com/climate-environment/2023/04/25/data-centers-drought-water-use/>), usage equivalent to a town of 10,000 to 50,000 people. Together, the nation's 5,426 data centers (<https://www.eesi.org/articles/view/data-center-energy-needs-are-upending-power-grids-and-threatening-the-climate>) consume billions of gallons of water annually. One report estimated that U.S. data centers consume 449 million gallons of water per day (<https://www.nature.com/articles/s41545-021-00101-w>) and 163.7 billion gallons annually (as of 2021). A 2016 report (<https://journal.uptimeinstitute.com/dont-ignore-water-consumption/>) found that fewer than one-third of data center operators track water consumption. Water consumption is expected to continue increasing as data centers grow in number, size, and complexity.

According to scientists at the University of California, Riverside, each 100-word AI prompt is estimated to use roughly one bottle of water (<https://www.washingtonpost.com/technology/2024/09/18/energy-ai-use-electricity-water-data-centers/>) (or 519 milliliters). This may not sound like much, but billions of AI users worldwide enter prompts into systems like ChatGPT every minute. Large language models require many energy-intensive calculations (<https://insidetheclimate.com/news/28092024/ai-water-usage/>), necessitating liquid cooling systems.

### The Water Cycle of Data Centers

### AI/Data Center Resources

- **Article | Data Center Energy Needs Could Upend Power Grids and Threaten the Climate** (<https://www.eesi.org/articles/view/data-center-energy-needs-are-upending-power-grids-and-threatening-the-climate>)
- **Briefing | Artificial Intelligence: Implications for Energy and the Environment** (<https://www.eesi.org/briefings/view/092525ai>)
- **All EESI Data Center Resources** (<https://www.eesi.org/page/Data+Centers>)

A data center's water footprint is calculated as the sum of three categories (<https://arxiv.org/pdf/2304.03271>): on-site water usage, water use by power plant facilities that supply power to data centers, and water consumption during the manufacturing process of processor chips. Water can come from various sources, including blue sources (<https://iopscience.iop.org/article/10.1088/1748-9326/abfa1>) (e.g., surface water and groundwater), piped sources such as municipal water, and gray sources (e.g., purified reclaimed water). Using recycled or non-potable water to meet a data center's cooling needs is a well-established practice to conserve limited potable water resources, particularly in dry or drought-prone areas.

In the context of data centers, "water consumption" (<https://arxiv.org/pdf/2304.03271>) refers to the amount of water withdrawn from blue or gray sources minus the water discharged by the centers (primarily warm water left over from cooling the IT racks). The consumed water is generally the water that evaporates or is otherwise taken out of immediate human usage. Withdrawal of fresh water from local streams or underground aquifers may lead to aquifer exhaustion, particularly in water-stressed areas.

Researchers at The Green Grid (<https://www.thegreengrid.org/>), a nonprofit industry consortium, developed a metric called Water Usage Effectiveness (<https://www.datacenterknowledge.com/cooling/a-guide-to-data-center-water-usage-effectiveness-wue-and-best-practices>) (WUE) to measure water usage by data centers. Similar to the Power Usage Effectiveness ([https://www.vertiv.com/en-emea/about/news-and-insights/articles/educational-articles/what-is-pue-power-usage-effectiveness-and-what-does-it-measure/#:~:text=Does%20it%20measure?\\_What%20is%20PUE%20\(Power%20Usage%20Effectiveness\)%20and%20What%20Does%20It,There%20are%20several%20practical%20considerations](https://www.vertiv.com/en-emea/about/news-and-insights/articles/educational-articles/what-is-pue-power-usage-effectiveness-and-what-does-it-measure/#:~:text=Does%20it%20measure?_What%20is%20PUE%20(Power%20Usage%20Effectiveness)%20and%20What%20Does%20It,There%20are%20several%20practical%20considerations)) (PUE) metric, which measures the energy efficiency of a data center, the WUE metric assesses the efficiency of a data center's water use. WUE is reported in liters per kilowatt-hour (kWh) (<https://www.datacenterknowledge.com/cooling/a-guide-to-data-center-water-usage-effectiveness-wue-and-best-practices>): a data center's total water consumption, measured in liters, is divided by the total energy consumed by that data center in kilowatt-hours in the same time period. While "0" is the ideal WUE score (<https://www.datacenterknowledge.com/cooling/a-guide-to-data-center-water-usage-effectiveness-wue-and-best-practices>), this can only be achieved in air-cooled data centers, and most data centers cannot meet this target due to their location's climate conditions. The average WUE across data centers is 1.9 liters per kWh (<https://www.datacenterknowledge.com/cooling/a-guide-to-data-center-water-usage-effectiveness-wue-and-best-practices>), which is a great goal to beat.

Data centers' water usage depends on various factors, including location, climate, water availability, size, and IT rack chip densities. In hotter climates, like in the southwest United States, data centers need to use more water to cool the building and equipment. With the increasing number of centers supporting AI requests, chip density is also growing, which leads to higher room temperatures, necessitating the use of more water chillers at the server level to maintain cool temperatures. Most data centers use a combination of chillers and on-site cooling towers to avoid chip overheating.

Cooling data centers is a complex operation (<https://arxiv.org/pdf/2304.03271>). At the server level, water chillers cool IT rooms to maintain optimal temperatures and prevent damage to chips. This can be achieved through air cooling using water evaporation, which is an open-loop and more water-intensive method, or through server liquid cooling (<https://www.datacenterdynamics.com/en/analysis/an-introduction-to-liquid-cooling-in-the-data-center/>). Server cooling is a more expensive approach that delivers the liquid coolant directly to the graphics processing units (GPUs) and central processing units (CPUs). Direct-to-chip liquid cooling and immersive liquid cooling (<https://www.datacenterdynamics.com/en/analysis/an-introduction-to-liquid-cooling-in-the-data-center/>) are two standard server liquid cooling technologies that dissipate heat while significantly reducing water consumption. During immersive cooling, water or specialized synthetic liquids flood the chips, absorbing the heat. The difference between direct server liquid cooling and air cooling through evaporation can be compared to the difference between drip irrigation and flooding in agriculture.

In areas with limited water availability (<https://www.npr.org/2022/08/30/1119938708/data-centers-backbone-of-the-digital-economy-face-water-scarcity-and-climate-ris>), server liquid cooling is the best choice, as it requires minimal water consumption. Conversely, in areas with a strained power grid, an evaporative air cooling tower is a suitable building design, as it requires minimal power usage.

Regardless of the approach chosen, a heat exchanger is necessary to capture (<https://blog.equinix.com/blog/2024/09/19/how-data-centers-use-water-and-how-were-working-to-use-water-responsibly/>) the hot air or hot water produced as a byproduct of the cooling process. Hot water coming from the servers is cooled by water from either the air-cooled chiller or a cooling tower. Likewise, hot air is exchanged with cooler air. A heat exchanger transfers heat from the server room to the building's cooling system.

Approximately 80% of the water (<https://arxiv.org/pdf/2304.03271>) (typically freshwater) withdrawn by data centers evaporates, with the remaining water discharged to municipal wastewater facilities. The large volume of wastewater from data centers may overwhelm existing (<https://ketos.co/ai-data-centers-wastewater-discharge-and-the-growing-need-for-effective-water-management#:~:text=The%20influx%20of%20wastewater%20from,time%20to%20manage%20the%20influx.>) local facilities, which were not designed to handle such a high volume.

Besides on-site water consumption, a significant portion of data center water usage originates from the power facilities where they obtain their energy. Because 56% of the electricity used to power data centers nationwide (<https://arxiv.org/pdf/2411.09786>) comes from fossil fuels, a significant portion of data center water consumption is derived from steam-generating power plants. Fossil fuel power plants rely on large boilers filled with water that is superheated by natural gas or coal to produce steam, which in turn rotates a turbine and generates electricity. Water withdrawals from these power plants ([https://www.srs.fs.usda.gov/pubs/ja/2023/ja\\_2023\\_caldwell\\_002.pdf](https://www.srs.fs.usda.gov/pubs/ja/2023/ja_2023_caldwell_002.pdf)) are a significant source of water stress, particularly in drought-prone areas and in the summer, when water levels are lower and electricity demands are higher.

A federal report estimated (<https://eta-publications.lbl.gov/sites/default/files/2024-12/lnl-2024-united-states-data-center-energy-usage-report.pdf>) that the indirect water consumption footprint (from electricity use) of data centers in the United States was roughly 211 billion gallons in 2023. Given that 176 terawatt-hours (TWh) of electricity were consumed by data centers in 2023, the centers' indirect water consumption can be estimated at 1.2 gallons per kWh on average nationally in 2023. As data centers are expected to consume up to 1,050 TWh annually by 2030 (<https://www.eesi.org/articles/view/data-center-energy-needs-are-upending-power-grids-and-threatening-the-climate>), water usage will increase in parallel.

Chip and server manufacturing are significant sources of water consumption for data centers. Semiconductors and computer chips are integral to data center processing. Each server in a data center contains multiple CPUs, GPUs, and memory chips. (<https://ifp.org/how-to-build-an-ai-data-center/>) Larger data centers and those that support AI requests can contain tens of thousands of servers, each with multiple chips. Ultrapure water is ideal for cleaning,

etching, and rinsing chips during the manufacturing process. (<https://www.weforum.org/stories/2024/07/the-water-challenge-for-semiconductor-manufacturing-and-big-tech-what-needs-to-be-done/>) Creating ultrapure water is a highly water-intensive process, requiring approximately 1,500 gallons of piped water to produce 1,000 gallons of ultrapure water. An average chip manufacturing facility (<https://www.weforum.org/stories/2024/07/the-water-challenge-for-semiconductor-manufacturing-and-big-tech-what-needs-to-be-done/>) consumes approximately 10 million gallons of ultrapure water per day. A single chip installed in a data center has already consumed thousands (<https://cwrrr.org/resources/analysis-reviews/8-things-you-should-know-about-water-and-semiconductors/>) of gallons of water by the time it reaches the site.



Water-cooled high computing systems in a data center.  
Credit: ECMWF Data Center.

### Water Impacts in Nearby Communities

The water consumption of the 5,426 data centers nationwide (<https://www.statista.com/statistics/1228433/data-centers-worldwide-by-country/>) is already impacting local communities. Northern Virginia is considered the world capital for data centers, with over 300 operational data centers (<https://www.governing.com/infrastructure/the-data-center-capital-of-the-world-is-in-virginia>) spread across four counties: Fairfax, Loudoun, Prince William, and Fauquier (<https://www.ft.com/content/1d468bd2-6712-4cdd-ac71-21e0ace2d048>). Collectively, all data centers in Northern Virginia consumed close to 2 billion gallons of water in 2023, a 63% increase from 2019 (<https://www.ft.com/content/1d468bd2-6712-4cdd-ac71-21e0ace2d048>). Loudoun County, with approximately 200 (<https://virginiabusiness.com/loudoun-county-advances-changes-to-data-center-regulations/>) operational data centers, used around 900 million gallons of water in 2023 (<https://vcnva.org/agenda-item/responsible-data-center-development/>). This has led Loudoun Water, the county's water authority, to rely heavily on potable water for data centers rather than reclaimed water.

### Making Data Centers More Water-Efficient

Data center developers' most common choice is to withdraw water from blue sources and employ water-intensive practices, such as air cooling through water evaporation. However, there are other options. To make a more sustainable choice for nearby communities and ecosystems, developers can instead use innovative water management techniques to reduce water consumption, including closed-loop cooling systems, immersion cooling, air cooling, and using non-potable water sources (e.g., recycled wastewater and captured water).

**Closed-loop cooling systems** enable the reuse of both recycled wastewater and freshwater, allowing water supplies to be used multiple times. A cooling tower can use external air to cool the heated water, allowing it to return to its original temperature. These systems can reduce freshwater use by up to 70% (<https://www.weforum.org/stories/2024/11/circular-water-solutions-sustainable-data-centres/#:~:text=To%20further%20mitigate%20the%20broader,Aquapreneur%20Innovation%20Initiative%2C%20visit%20UpLink.>).

**Free cooling** is a method where outside cold air is drawn into the data center to cool the equipment. Data centers must be located in cooler climates for this strategy to be effective.

**Air cooling** involves air conditioning vents and tubes that remove heat generated by chips (<https://www.digitalrealty.com/resources/articles/future-of-data-center-cooling>) as they process data and AI requests. This method is most effective in areas where electricity is cheaper and water resources are limited.

**Immersion cooling** in data centers involves bathing servers, chips, and other components in a specialized dielectric (or non-conductive) fluid. Hardware is submerged in specially designed tanks filled with the coolant. (<https://www.grcooling.com/blog/forecasting-data-center-immersion-cooling-technology/#:~:text=Immersion%20cooling%20submerges%20computer%20hardware,it%20into%20a%20heat%20exchanger.>) The non-conductive liquid absorbs the heat from the chips and transfers it to a heat exchanger, where it is cooled down before flowing back into the tank. Immersion cooling is a novel process that entails higher upfront costs than conventional direct liquid cooling, but provides significant energy savings and space-optimization benefits for data center developers. Since the technology uses synthetic fluids, it requires significantly less water than other approaches.

Powering data centers with renewable energy sources, like solar or wind, requires significantly less water consumption than obtaining energy from fossil fuel power plants. With approximately 56% of the electricity used to power data centers nationwide (<https://arxiv.org/pdf/2411.09786>) coming from fossil fuels, deploying more clean energy to power these facilities can significantly reduce water consumption. Coal plants are the most water-intensive facilities, requiring approximately 19,185 gallons of water (<https://www.eia.gov/todayinenergy/detail.php?id=56820#:~:text=Natural%20gas%20plants%20use%20a,19%2C185%20gal%2FMWh%20for%20coal.>) per megawatt-hour (MWh) of power generation. Natural gas power plants consume approximately 2,800 gallons per MWh (<https://www.eia.gov/todayinenergy/detail.php?id=56820#:~:text=Natural%20gas%20plants%20use%20a,19%2C185%20gal%2FMWh%20for%20coal.>). In 2022, 40% of all total U.S. annual water withdrawals, or about 48.5 trillion gallons (<https://iopscience.iop.org/article/10.1088/1748-9326/ad6fb8>), were made by coal and gas power plants. Of those 48.5 trillion gallons, 962 billion gallons of water were consumed (<https://iopscience.iop.org/article/10.1088/1748-9326/ad6fb8>) and were no longer available for direct downstream use. Meanwhile, rooftop solar panels and wind turbines do not need any cooling water, and they are not a steam-based energy technology like coal and natural gas.

If the United States moves toward 100% renewable energy generation and the retirement of fossil fuel plants, the water savings would be enormous, with billions of gallons of water saved, and more freshwater would be available for both human consumption and natural ecosystems.

**Author: Miguel Yañez-Barnuevo**



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# EXHIBIT 10



In this Section



# Data Drain: The Land and Water Impacts of the AI Boom

*By Jon Gorey, October 17, 2025*





from sunlight, active all night. And much like a vampire, at least according to folkloric tradition, it can only enter a place if it's been invited inside.

In states and counties across the US, lawmakers aren't just opening the door for these metaphorical, mechanical monsters. They're actively luring them in, with tax breaks and other incentives, eager to lay claim to new municipal revenues and a piece of the explosive growth surrounding artificial intelligence.

That may sound hyperbolic, but data centers truly are **resource-ravenous**. Even a mid-sized data center consumes as much water as **a small town**, while larger ones require up to 5 million gallons of water every day—as much as a city of 50,000 people.

Powering and cooling their rows of server stacks also takes an astonishing amount of electricity. A conventional data center—think cloud storage for your work documents or streaming videos—draws as much electricity as 10,000 to 25,000 households, **according to the International Energy Agency**. But a newer, AI-focused “hyperscale” data center can use as much power as 100,000 homes or more. Meta's Hyperion data center in Louisiana, for example, is expected to draw more than twice the power of the entire city of New Orleans once completed. Another Meta data center **planned in Wyoming** will use more electricity than every home in the state combined.

And of course, unlike actual clouds, data centers require land. Lots of it. Some of the largest data centers being built today will cover hundreds of acres with impermeable steel, concrete, and paved surfaces—land that will no longer be available for farmland, nature, or housing—and require new transmission line corridors and other associated infrastructure as well.

Data centers have been part of our built landscape for over a decade, however—many of them tucked into unassuming office parks, quietly processing our web searches and storing our cellphone photos. So why the sudden concern? Artificial intelligence

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investing quickly and heavily in AI.

The number of US data centers more than doubled between 2018 and 2021 and, fueled by investments in AI, that number has already doubled again. Early in the AI boom, in 2023, US data centers consumed 176 terawatt-hours of electricity, roughly as much as the entire nation of Ireland (whose electric grid is itself nearly maxed out, prompting data centers there to use polluting off-grid generators), and that's expected to double or even triple as soon as 2028.

This rapid proliferation can put an enormous strain on local and regional resources—burdens that many host communities are not fully accounting for or prepared to meet.

“Demand for data centers and processing has just exploded exponentially because of AI,” says Kim Rueben, former senior fiscal systems advisor at the Lincoln Institute of Land Policy. Virginia and Texas have long had tax incentives in place to attract new data centers, and “other states are jumping on the bandwagon,” she says, hoping to see economic growth and new tax revenues.

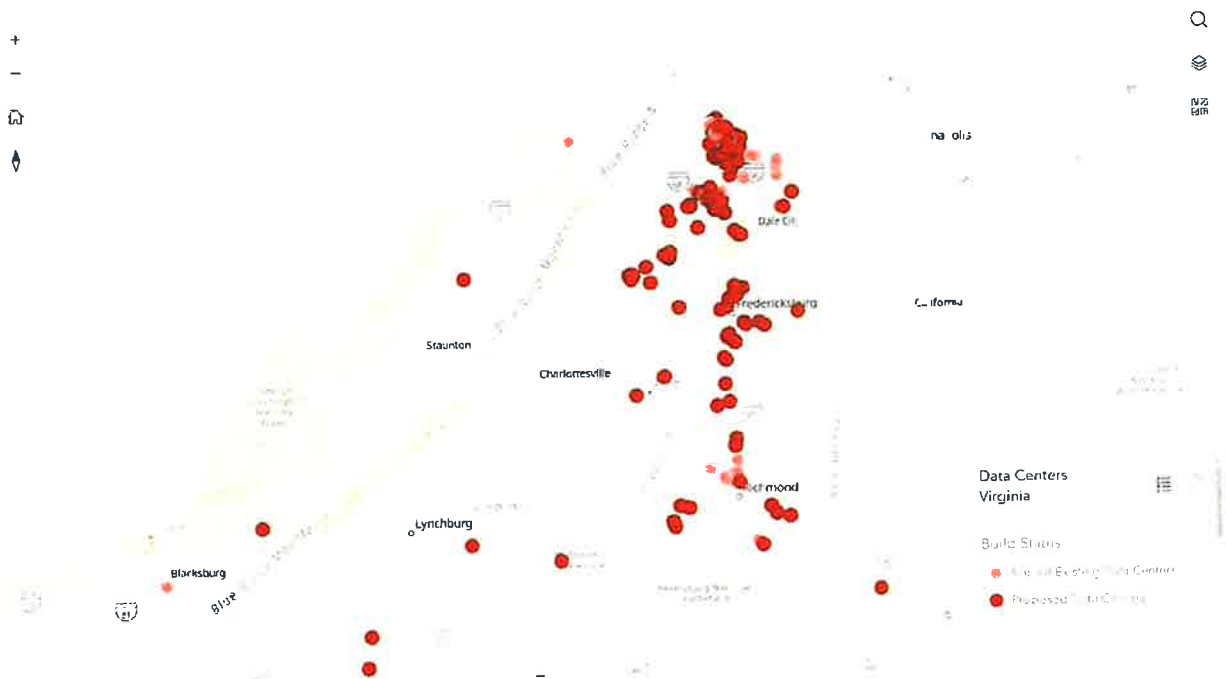
But at a Land Policy and Digitalization conference convened by the Lincoln Institute last spring, Rueben likened the extractive nature of data centers to coal mines. “I don't think places are acknowledging all the costs,” she says.

## Yes, Virginia, There Is a Data Clause

At that conference, Chris Miller, executive director of the Piedmont Environmental Council, explained how roughly two-thirds of the world's internet traffic passes through Northern Virginia. The region already hosts the densest concentration of data centers anywhere in the world, with about 300 facilities in just a handful of counties. Dozens more are planned or in development, ready to consume the region's available farmland, energy, and water, enticed by a statewide incentive that lures companies more than \$130 million in sales and use taxes each year.

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from local data centers in fiscal year 2025 to approach \$900 million, **nearly as much** as the county's entire operating budget. The proportion of revenue derived from data centers has grown so lopsided that the county's board of supervisors is considering **adjusting the tax rate**, so as not to be so reliant on a single source.



Existing and planned data centers in Northern Virginia. The state has been dubbed “the data center capital of the world.” Credit: Piedmont Environmental Council.

While many communities see data centers as an economic boon due to that tax revenue, the facilities themselves are not powerful long-term job engines. Most of the jobs they create are rooted in their construction, **not their ongoing operation**, and thus are largely temporary.

Decades ago, PEC supported some of the data center development in Northern Virginia, says Julie Bolthouse, PEC's director of land policy. But the industry has changed dramatically since then. When AOL had its headquarters in what's known as **Data Center Alley**, for example, the company's data center was a small part of a larger campus, “which had pedestrian trails around it, tennis courts, basketball

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isolated from the community now, and it is only going to employ about 100 to 150 people on the same piece of land. That's the difference."

The facilities have also gotten "massive," Bolthouse adds. "Each one of those buildings is using as much as a city's worth of power, so that power infrastructure is having a huge impact on our communities. All the transmission lines that have to be built, the eminent domain used to get the land for those transmission lines, all of the energy infrastructure, gas plants, pipelines that deliver the gas, the air pollution associated with that, the climate impacts of all of that."

Across Northern Virginia, on-site diesel generators—**thousands of them**, each the size of a rail car—spew diesel fumes, creating air quality issues. "No other land use that I know of uses as many generators as a data center does," Bolthouse says. And while such generators are officially classified as emergency backup power, data centers are permitted to run them for "demand response" for 50 hours at a time, she adds. "That's a lot of air pollution locally. That's particulate matter and NOx [**nitrogen oxides**], which impacts growing lungs of children, can add cases of asthma, and can exacerbate heart disease and other underlying diseases in the elderly."

And then there's the water issue.

### **'Like a Giant Soda Straw'**

A **study** by the Houston Advanced Research Center (HARC) and University of Houston found that data centers in Texas will use 49 billion gallons of water in 2025, and as much as 399 billion gallons in 2030. That would be equivalent to drawing down the largest reservoir in the US—157,000-acre Lake Mead—by **more than 16 feet** in a year.

Anyone who's accidentally left their phone out in the rain or dropped it in a puddle might wonder what a building full of expensive, delicate electronics could want with billions of gallons of water. It's largely for cooling purposes. Coursing with electrical

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What that means, however, is that the water isn't just used for cooling and then discharged as treatable wastewater; much of it evaporates in the process—*poof*.

“Even if they're using reclaimed or recycled water, that water is no longer going back into the base flow of the rivers and streams,” Bolthouse says. “That has ecological impacts as well as supply issues. Everybody is upstream from someone else.” Washington, DC, for example, will still lose water supply if Northern Virginia data centers use recycled or reclaimed water, because that water won't make it back into the Potomac River. Evaporative cooling also leaves behind high concentrations of salts and other contaminants, she adds, creating water quality issues.

There are less water-intensive ways to cool data centers, including closed-loop water systems, which require more electricity, and **immersion cooling**, in which servers are submerged in a bath of liquid, such as a synthetic oil, that conducts heat but not electricity. Immersion cooling allows for a denser installation of servers as well, but is not yet widely used, largely due to cost.

Ironically, it can be hard to confirm specific data about data centers. Given the proprietary nature of AI technology and, perhaps, the potential for public backlash, many companies are **less than forthcoming** about how much water their data centers consume. Google, for its part, **reported** using more than 5 billion gallons of water across all its data centers in 2023, with 31 percent of its freshwater withdrawals coming from watersheds with medium or high water scarcity.

A 2023 **study** by the University of California Riverside estimated that an AI chat session of 20 or so queries uses up to a bottle of freshwater. That amount can vary depending on the platform, with more sophisticated models demanding larger volumes of water, while other estimates suggest it could be closer to a few spoonfuls per query.

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of water for a few queries, but it's all being taken from one basin where that data center is located—that's thousands and thousands of gallons of water being drawn from one place from people doing their AI queries from all over the world," he says.

"Wherever they choose to put a data center, it is like a giant soda straw sucking water out of that basin," Colohan continues. "And when you take water from a place, you have to reduce demand or put water back in that same place, there's no other solution. In some cases, at least, major data center developers have begun to recognize this problem and are actively engaging in [water replenishment](#) where it counts."

Locating data centers in cooler, wetter regions can help reduce the amount of water they use and the impact of their freshwater withdrawals. And yet roughly two-thirds of the data centers built since 2022 have been located in water-stressed regions, [according to a Bloomberg News analysis](#), including hot, dry climates like Arizona.

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The warm water-cooling system at a Sandia Labs data center in Albuquerque, New Mexico. The data center earned LEED Gold certification for efficiency in 2020. Credit: Bret Latter/Sandia Labs via Flickr CC.

It's not just cooling the server rooms and chips that consumes water. About half of the electricity currently used by US data centers comes from fossil fuel power plants, which themselves use a lot of water, as they heat up steam to turn their massive turbines.

And the millions of microchips processing all that information? By the time they reach a data center, each chip has already consumed thousands of gallons of water. Manufacturing these tiny, powerful computing components requires "ultrapure" treated water to rinse off silicon residue without damaging the chips. It takes about 1.5 gallons of tap water to produce a gallon of ultrapure water, and the typical chip factory uses about 10 million gallons of ultrapure water each day, [according to the World Economic Forum](#)—as much as 33,000 US households.



There could be important uses for artificial intelligence—if it can be harnessed to solve complex problems, for instance, or to improve the efficiency of water systems and electric grids.

There are clearly superfluous uses, too. A YouTube channel with 35 million subscribers, for example, features AI-generated music videos ... of AI-generated songs. The MIT Technology Review *estimates* that, unlike simple text queries, using AI to create video content is extremely resource-heavy: Making a five-second AI-generated video uses about as much electricity as running a microwave nonstop for over an hour.

Data center defenders tend to point to the fact that Americans use more water each year to irrigate golf courses (more than 500 billion gallons) and lawns (over 2 trillion gallons) than AI data centers use. However, that argument rings false: America has a well-documented addiction to green grass that is also not serving us well. The solution, water experts say, lies in water conservation and consumer education, not comparing one wasteful use to another.

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## Putting a Finite Resource First

Even a small data center can place an immense, concentrated burden on local infrastructure and natural resources. In Newton County, Georgia, a Meta data center that opened in 2018 uses 500,000 gallons of water per day—10 percent of the entire county's water consumption. And given Georgia's cheap power and generous state tax breaks, Newton County continues to field requests for new data center permits—some of which would use up to 6 million gallons of water per day, more than doubling what the entire county currently consumes.

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coordinated, holistic understanding of existing resources and potential impacts on the energy grid and the watershed, says Mary Ann Dickinson, policy director for land and water at the Lincoln Institute. “We would like to help communities make smarter decisions about data centers, helping them analyze and plan for the potential impacts to their community structures and systems.”

“Water is often one of the last things that gets thought about, so one of the things that we’re really promoting is early engagement,” says John Heron, strategic development manager at **Thames Water** in the UK. “So when you’re thinking about data centers, it’s not just about the speed you’re going to get, it’s not just about making sure there’s a lot of power available—we need to make sure that water is factored in at the earliest possible thinking ... at the forefront, rather than an afterthought.”

Despite its damp reputation, London doesn’t receive a whole lot of rainfall compared to the northern UK – **less than 25 inches a year**, on average, or roughly half of what falls in New York City. Yet because so much growth is centered on London, the Thames Water service area holds about 80 percent of the UK’s data centers, Heron says, and another 100 or so are proposed.

What’s more, their water usage peaks during the hottest, driest times of the year, when the utility can least accommodate the extra demand. “That’s why we talk about restricting or reducing or objecting to [data centers],” Heron says. “It’s not because we don’t like them. We absolutely get it, we need them ourselves. AI will massively help our call center ... which means we can have more people out fixing leaks and proactively managing our networks.”

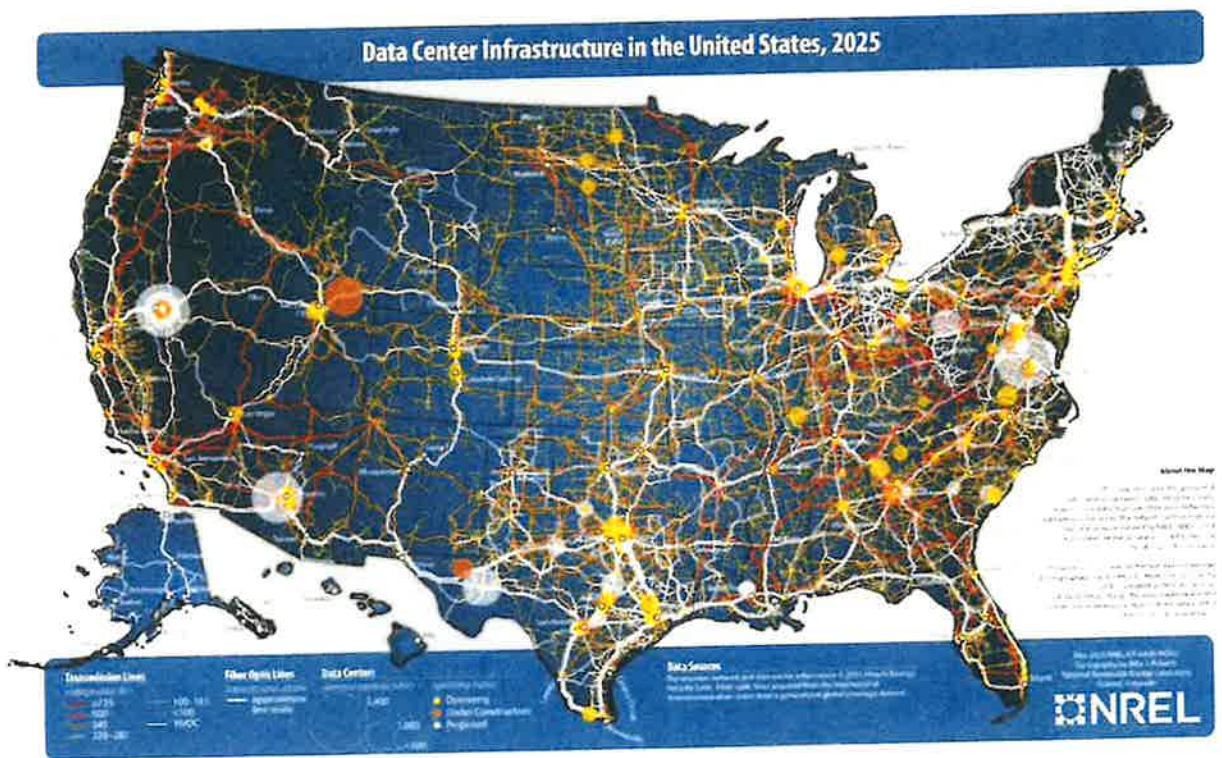
## Keeping the Lights On

One way for data centers to use less water is to rely more heavily on air-cooling technology, but this requires more energy—which may in turn increase water use ... directly, depending on the power source. What’s more, regional grids are already

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associate professor of engineering at University of Southern California.

The government wants US technology companies to build their AI data centers domestically—not just for economic reasons, but for national security purposes as well. But even as the Trump administration appears to understand the enormous energy demands data centers will place on the electric grid, it has actively squashed new wind power projects, such as **Revolution Wind** off the coast of Rhode Island.



NREL (the National Renewable Energy Laboratory) created this overlay map of transmission lines and data center locations to “help visualize the overlap and simplify co-system planning.” Credit: NREL.gov.

Other carbon-free alternatives like small modular reactors (SMRs) and geothermal energy have bipartisan support, Sanders says. “But the problem is, even if you put shovels in the ground for an SMR today, it’s going to take 10 years,” she says. “The things that we can do the fastest are wind, solar, and batteries. But in the last six

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the grid soon, in some of these regions that are really congested.”

Data centers are among the reasons ratepayers nationwide have seen their electric bills increase at **twice the rate of inflation** in the past year. Part of that is the new infrastructure data centers will require, such as new power plants, transmission lines, or other investments. Those costs, as well as ongoing grid maintenance and upgrades, are typically shared by all electric customers in a service area, through charges added to utility bills.

This creates at least two issues: While the tax revenues of a new data center will benefit only the host community, the entire electric service area must pay for the associated infrastructure. Secondly, if a utility makes that huge investment, but the data center eventually closes or needs much less electricity than projected, it's the ratepayers who will foot the bill, not the data center.

Some tech companies are securing their own clean power independent of the grid—Microsoft, for example, signed a 20-year agreement to **purchase energy** directly from the Three Mile Island nuclear plant. But that approach isn't ideal either, Sanders says. “These data centers are still going to use transmission lines and all those grid assets, but if they're not buying the electricity from the utility, they're not paying for all that infrastructure through their rate bills,” she says.

Aside from generating new power, Sanders says, there are strategies to squeeze more capacity from the existing grid. “One is good old energy efficiency, and the data centers themselves have all of the incentives aligned to try to make their processes more efficient,” she says. AI itself could potentially also **help enhance** grid performance. “We can use artificial intelligence to give us more information about how power is flowing through the grid, and so we can optimize that power flow, which can give us more capacity than we would have otherwise,” Sanders says.

Another strategy is to make the grid more flexible. Most of the time, and in most regions of the US, we only use about 40 percent of the grid's total capacity, Sanders



flexibility and stabilize the grid during times of peak demand. In July, California's Pacific Gas and Electric Company (PG&E) conducted **the largest-ever test** of its statewide "virtual power plant," using residential batteries to supply 535 megawatts of power to the grid for two full hours at sundown.

With some intentional, coordinated planning—"it's not just going to happen naturally," Sanders says—it may be possible to add more capacity without requiring a lot of new generation if data centers can reduce their workloads during peak times and invest in large-scale battery backups: "There is a world in which these data centers can actually be good grid actors, where they can add more flexibility to the grid."

## Confronting Trade-Offs With Land Policy

As the demand for data centers grows, finding suitable locations for these facilities will force communities to confront myriad and imperfect trade-offs between water, energy, land, money, health, and climate. "Integrated land use planning, with sustainable land, water, and energy practices, is the only way we can sustainably achieve the virtuous circle needed to reap the benefits of AI and the economic growth associated with it," Colohan says.

For example, using natural gas to meet the anticipated electricity load of Texas data centers would require 50 times more water than using solar generation, according to the HARC **study**, and 1,000 times more water than wind. But while powering new data centers with wind farms would consume the least water, it would also require the most land—four times as much land as solar, and 42 times as much as natural gas.

Absent an avalanche of new, clean power, most data centers are adding copious amounts of greenhouse gases to our collective emissions, at a time when science demands we cut them sharply to limit the worst impacts of climate change. Louisiana regulators in August approved plans to **build three new gas power plants** to offset the expected electricity demand from Meta's Hyperion AI data center.

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more regionally, including to areas that won't see any new tax revenue.

That's one reason data center permitting needs more state oversight, Bolthouse says. "The only approval that they really have to get is from the locality, and the locality is not looking at the regional impacts," she says. PEC is also pushing for ratepayer protections and sustainability commitments. "We want to make sure we're encouraging the most efficient and sustainable practices within the industry, and that we're requiring mitigation when impacts can't be avoided."



Too close for comfort? A data center abuts homes in Loudoun County, Virginia. Credit: Hugh Kenny via Piedmont Environmental Council.

PEC and others are also pressing for greater transparency from the industry. "Very often, data centers are coming in with non-disclosure agreements," Bolthouse says. They're hiding a lot of information about water usage, energy usage, air quality

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“We need communities to be educated about what they’re facing, and what their trade-offs are when they let in a data center,” Colohan says. “What is the cost—the true cost—of a data center? And then how do you turn that true cost into a benefit through integrated land policy?”

Rueben says she understands the desire, especially in communities experiencing population loss, to tap into a growing industry. But rather than competing with each other to attract data centers, she says, communities ought to be having broader conversations about job growth and economic development strategies, factoring in the true costs and trade-offs these facilities present, and asking the companies to provide more guarantees and detailed plans.

“Forcing data center operators to explain how they’re going to run the facility more efficiently, and where they’re going to get their water from—and not just assuming that they have first access to the water and energy systems,” she says, “is a shift in perspective that we kind of need government officials to make.”

---

Jon Gorey is a staff writer at the Lincoln Institute of Land Policy.

*Lead image:* Data center facilities in Prince William County, Virginia. The county has 59 data centers in operation or under construction. *Credit:* Hugh Kenny via Piedmont Environmental Council.

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# EXHIBIT 11

Posted on: December 12, 2025

## City of El Centro Addresses Community Questions Regarding Proposed Data Center

EL CENTRO, Calif. — Dec. 12, 2025 — The City of El Centro is aware of information circulating regarding a privately proposed data center north of the City and claims related to the use of reclaimed wastewater.



The City of El Centro wishes to clarify that no agreement of any kind has been entered into with any data center developer. The City has not received or approved an application, has not authorized the use of reclaimed or wastewater, and has not committed to constructing infrastructure to support such a project.

While the City proudly welcomes new businesses and economic opportunities that benefit our community, residents, and environment, no commitments or decisions have been made regarding any proposed data center. Any entity expressing interest in locating within El Centro or acquiring services from the City must undergo a formal, transparent, and thorough review process, which includes evaluating potential impacts on City services, infrastructure, natural resources, and overall community well-being.

### Tools

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Separately, questions have been raised regarding potable water service. The City did receive a request for a conditional will-serve letter from the data center developer, which is a standard, informational tool commonly requested by developers and financial institutions to assess whether water service could potentially be available. A will-serve letter does not constitute a commitment to provide water or approval of a project, and in this case, was issued with clear conditions and additional safeguards stating that no commitments exist and that any future consideration would require formal studies, applications, environmental review, and public approval.

The City of El Centro remains committed to responsible, sustainable economic development that aligns with community values and long-term goals. Should a formal proposal be submitted, the City will ensure that residents are notified and fully informed as part of the public review and decision-making process.

We welcome interest from prospective businesses, but it is important to underscore that the City has not entered into any agreement or made any commitments related to a data center project.

For ongoing updates, residents are encouraged to follow official City communications, including our free Mass Notification System available at our website, [www.cityofelcentro.org](http://www.cityofelcentro.org).

[Press Release \(English\)](#)

[Press release \(Spanish\)](#)

###

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[El Centro Library Director  
Carla Mason Appointed to  
Cal Cities Policy Committee](#)

[Next ⇒](#)

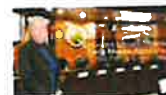
[Mayor Carter appointed to Cal  
Cities Public Safety Policy  
Committee](#)

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## Other News in City News

[El Centro Library Director Carla Mason Appointed  
to Cal Cities Policy Committee](#)

Posted on: December 15, 2025



[Mayor Carter appointed to Cal Cities Public Safety  
Policy Committee](#)



[Google Translate](#) December 11, 2025

# EXHIBIT 12



## Deficit Irrigation Program (DIP)

### Background

The Colorado River Basin has experienced the driest 24-year period in its historical record. Prolonged drought and low runoff conditions accelerated by climate change have led to historically low water levels in both Lake Powell and Lake Mead. In 2022, after determining the Colorado River would operate under Tier 2 drought conditions in 2023, the U.S. Department of the Interior committed to address the near-term drought crisis, historically low reservoir elevations and low runoff conditions by announcing its intent to modify the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead. Congress indicated its support for voluntary compensated water management and conservation actions by appropriating \$4 billion in funding specifically for the Colorado River Basin and other areas experiencing similar levels of drought, under the Inflation Reduction Act of 2022. In September 2022, Reclamation announced the creation of the Lower Colorado River Basin System Conservation and Efficiency Program (LC Conservation Program) to allocate some of this funding to Colorado River contractors to fund voluntary temporary conservation efforts. In November 2022, IID submitted a four-year LC Conservation Program 1.b proposal to Reclamation to expand the district's conservation efforts for four years, from 2023 through 2026, to create up to 1 million acre-feet of conservation, consistent with the Lower Basin proposal. IID and Reclamation agreed to separate IID's proposal into two parts, developing one System Conservation Implementation Agreement for calendar year 2023 and one SCIA for calendar years 2024 through 2026. The 2023 SCIA was executed on December 6, 2023, and resulted in the creation of 106,111 acre-feet of System Conservation Water from IID's On-Farm Efficiency Conservation Program, funded by the LC Conservation Program. On August 12, 2024 IID executed the 2024 – 2026 SCIA to fund the creation of up to 300,000 acre-feet per year of System Conservation Water to be left in Lake Mead, with a cumulative total of up to 700,000 acre-feet of conservation during those three years.

In 2024, IID implemented a truncated Deficit Irrigation Program from August 13 – September 30, 2024. This shortened program involved 154,145 acres of Alfalfa, Bermuda grass and Klein grass that were not irrigated for a 49 to 60-day period, yielding 172,266 AF of conservation at-River with conservation payments of nearly \$50 million to participants. A summary of the 2024 DIP is posted below.

# 2025 Deficit Irrigation Program

The Deficit Irrigation Program (DIP) incentivizes deficit irrigation practices to be performed on a voluntary basis by farmers on land that is cultivating either Alfalfa, Bermuda grass, or Klein grass in order to reduce IID’s consumptive use of Colorado River water and create System Conservation Water. Eligible fields must be at least 20 acres and have been cultivating Alfalfa, Bermuda grass or Klein grass prior to January 1, 2024. Participants will be allowed to select a 45-day or 60-day deficit irrigation term between the beginning of June and the end of September. During the 45 to 60-day deficit irrigation period, IID will physically lock the delivery gate and institute electronic locks to prevent water from being ordered for participating fields. Conservation yields will be based off the average historical water use recorded for Alfalfa, Bermuda grass, and Klein grass in the Imperial Valley during similar time periods, and IID will remove the final conservation volume from the participant’s annual farm unit water apportionment account. Landowner signatures will be required on DIP. The DIP conservation payment rate for 2025 is \$300/AF, and additional DIP details are included in the updated project description below.

2025 DEFICIT IRRIGATION PROGRAM SCHEDULE*	
DIP Participation Solicitation Period Opens	February 19, 2025
DIP Participation Solicitation Period Ends	<b>March 15, 2025 at 5:00 p.m.</b>
Initiation of USFWS/CDFW coordination efforts	March 17, 2025
DIP Contracting Begins* (estimate)	May 2025
Implementation Period	June 1, 2025 - September 30, 2025

\*Contingent upon federal funding.

## 2025 Deficit Irrigation Program Conservation Rates

60-DAY DEFICIT IRRIGATION PERIOD CONSERVATION RATES			
START DATE	ALFALFA (AF/AC)	BERMUDA GRASS (AF/AC)	KLEIN GRASS (AF/AC)
6/1/2025 - 6/7/2025	1.67	1.45	1.79
6/8/2025 - 6/14/2025	1.65	1.42	1.78
6/15/2025 - 6/21/2025	1.62	1.40	1.78
6/22/2025 - 6/28/2025	1.60	1.38	1.77
6/29/2025 - 7/5/2025	1.57	1.36	1.77
7/6/2025 - 7/12/2025	1.50	1.39	1.74
7/13/2025 - 7/19/2025	1.43	1.43	1.71
7/20/2025 - 7/26/2025	1.36	1.46	1.68

<b>60-DAY DEFICIT IRRIGATION PERIOD CONSERVATION RATES</b>			
<b>START DATE</b>	<b>ALFALFA (AF/AC)</b>	<b>BERMUDA GRASS (AF/AC)</b>	<b>KLEIN GRASS (AF/AC)</b>
7/27/2025 - 8/2/2025	1.28	1.49	1.66
<b>45-DAY DEFICIT IRRIGATION PERIOD CONSERVATION RATES</b>			
<b>START DATE</b>	<b>ALFALFA (AF/AC)</b>	<b>BERMUDA GRASS (AF/AC)</b>	<b>KLEIN GRASS (AF/AC)</b>
6/1/2025 - 6/7/2025	1.35	0.90	1.40
6/8/2025 - 6/14/2025	1.33	0.88	1.39
6/15/2025 - 6/21/2025	1.29	0.92	1.40
6/22/2025 - 6/28/2025	1.24	1.00	1.42
6/29/2025 - 7/5/2025	1.17	1.08	1.41
7/6/2025 - 7/12/2025	1.10	1.14	1.41
7/13/2025 - 7/19/2025	1.04	1.18	1.39
7/20/2025 - 7/26/2025	0.98	1.20	1.37
7/27/2025 - 8/2/2025	0.93	1.18	1.37
8/3/2025 - 8/9/2025	0.93	1.10	1.35
8/10/2025 - 8/17/2025	0.91	1.09	1.30

The generic 2025 DIP application package is posted below. More detailed Farm Unit application packages are available upon request and include a list of all fields within a farm unit that meet the eligibility requirements for the 2025 DIP. Please email [deficitirrigation@iid.com](mailto:deficitirrigation@iid.com) to request a Farm Unit Application package and include the Farm Unit name that you are requesting as it appears on the water card.

There is currently some level of uncertainty as to the status of all federal funding as a result of the transition to a new administration. Contracting for the 2025 DIP is contingent upon a continuation of federal funding. IID is working to advocate for this contracted funding and to obtain additional federal assurances for the balance of outstanding (2024) and anticipated (2025-2026) system conservation payments under its 2024-2026 SCIA.

Additional questions regarding the DIP should be directed to (760) 339-9256 or by email to [deficitirrigation@iid.com](mailto:deficitirrigation@iid.com), your patience is appreciated as we respond to inquiries in the order they are received.

For information regarding the current DIP solicitation and a program description, forms, and sample contracts, please click on the links below.

<b>DOWNLOAD / VIEW</b>
<a href="#">Final May 2025 DIP Program Description [PDF]</a>
<a href="#">Final May 2025 DIP Contract Template [PDF]</a>
<a href="#">2025 DIP Lottery Excluded Fields 5-22-2025 [PDF]</a>
<a href="#">2025 DIP Application [PDF]</a>
<a href="#">2025 DIP Application [XLS]</a>
<b>DIP PARTICIPATION SUMMARY</b>
<a href="#">2025 Deficit Irrigation Program Payments [PDF]</a>
<a href="#">2025 DIP Report [PDF]</a>
<a href="#">2024 Deficit Irrigation Program Payments [PDF]</a>
<a href="#">2024 DIP Report [PDF]</a>

**ATTACHMENT “F”**  
**-CEO PUBLIC ANNOUNCEMENT**



FOR IMMEDIATE RELEASE

December 18, 2025

Eddie Lopez – Deputy CEO of Communications

[communications@co.imperial.ca.us](mailto:communications@co.imperial.ca.us)

(442) 265-1005

## Imperial County Planning Commission Lot Merger #00191 Discussion

**Imperial County, CA** - Imperial County recognizes the community interest surrounding today's Planning Commission meeting and appreciates the participation of residents who took time to attend and share their perspectives. The County remains committed to maintaining a respectful and transparent public process. Today's meeting addressed several items including Lot Merger #00191, an application submitted by Imperial Valley Computer Manufacturing, LLC. Discussion on that application reflected the passion many residents feel about land use decisions in the Imperial Valley.

### Planning Commission Role and Voting Process

The Imperial County Planning Commission is composed of ten (10) commissioners, who are appointed by the Imperial County Board of Supervisors. For any motion to pass, a minimum of six affirmative votes is required, regardless of how many commissioners are present at any given hearing.

### Purpose of the Agenda Item "Lot Merger #00191"

Today's hearing on Lot Merger #00191, concerned **a lot merger only**, not the approval of a data center project. The application outlined requests for approval to consolidate five individual parcels into a single approximately 75.39 acre site located at 2304 Clark Road, Imperial, California. No entitlement for construction or operation of a data center was considered or approved as part of this application.

### Specific Actions Before the Planning Commission on Lot Merger #00191:

1. Find that Lot Merger #00191 is categorically exempt from the California Environmental Quality Act pursuant to Article 19, Section 15305, Minor Alterations in Land Use Limitations, and that no further environmental documentation is required.
2. Find that Lot Merger #00191 is consistent with applicable zoning and building ordinances.
3. Approve Lot Merger #00191 subject to the attached conditions.

### Motion's Made on December 18, 2025, Regarding Lot Merger #00191

Commissioner Carson Kalin made a motion to approve the lot merger application, the votes on the motion were as follows:

- **Yes:** Schaffner, Kalin, Cabanas, Gallegos, Roben (5)
- **No:** Wright, Dunn (2)
- **Absent:** Hinojosa, Medina, Gutierrez (left prior to motion) (3)



Per County policy, although a majority of commissioners voted in favor, the motion failed because there were not **six affirmative votes**, which is required for approval of any item.

Following the first motion that failed, a separate motion was introduced by Commissioner Sergio Cabanas for the applicant to further discuss the project with the City of Imperial, City of El Centro, and the community before bringing the item back the Planning Commission for consideration. This motion passed, with the seven present commissioners voting affirmatively.

**During the hearing, no motion was made to deny the lot merger application.**

#### **Appeal Status and Process**

After the Planning Commission hearing, on December 18, 2025, the applicant filed an appeal with the County, pursuant to Imperial County Code, Title 9, Division 1; a copy of the appeal has been included with this press release. An appeal allows the next decision-making body to review the Planning Commission record, consider additional testimony as permitted by County procedures, and take action on the matter.

#### **Next Steps and Board of Supervisors Meeting**

As part of the appeal process, the matter will be scheduled for a public hearing before the Imperial County Board of Supervisors. The Board will review the appeal in accordance with County ordinances and applicable state law. Details regarding the date, time, and location of that meeting will be provided once the hearing is formally scheduled.

Imperial County remains committed to ensuring that land use decisions follow established procedures, comply with all legal requirements, and provide opportunities for meaningful public input. The County appreciates the engagement from residents in public processes and encourages community members to continue participating respectfully.

For additional information, residents may contact the Imperial County Planning and Development Services Department.

###

**ATTACHMENT "G"**

**-PC ORIGINAL PACKAGE**

# PROJECT REPORT

**TO: PLANNING COMMISSION**  
**FROM: PLANNING & DEVELOPMENT SERVICES**

**AGENDA DATE: December 18, 2025**  
**AGENDA TIME: 9:00AM / No. 2**

Lot Merger (MERG) #00191  
PROJECT TYPE: Imperial Valley Computer Manufacturing, LLC SUPERVISOR DIST. #5  
LOCATION: 2304 Clark Road APN(s): 044-220-007, -042, -044, -045 & -046  
Imperial, CA 92251 PARCEL SIZE: ±5.00-AC, ±4.95-AC, ±9.74-AC, ±10.01-AC & 45.69-AC

GENERAL PLAN (existing) Urban Area GENERAL PLAN (proposed) N/A  
M-1-U (Light Industrial, Urban), M-2-U (Medium Industrial, Urban)  
ZONE (existing) & A-2-U (General Agricultural, Urban) ZONE (proposed) N/A

GENERAL PLAN FINDINGS     CONSISTENT     INCONSISTENT     MAY BE/FINDINGS

PLANNING COMMISSION DECISION:    HEARING DATE: 12/18/2025

APPROVED     DENIED     OTHER

PLANNING DIRECTORS DECISION:    HEARING DATE: \_\_\_\_\_

APPROVED     DENIED     OTHER

ENVIROMENTAL EVALUATION COMMITTEE DECISION:    HEARING DATE: N/A  
INITIAL STUDY: N/A

NEGATIVE DECLARATION     MITIGATED NEG. DECLARATION     EIR

## DEPARTMENTAL REPORTS / APPROVALS:

PUBLIC WORKS	<input type="checkbox"/>	NONE	<input checked="" type="checkbox"/>	ATTACHED
AG	<input type="checkbox"/>	NONE	<input checked="" type="checkbox"/>	ATTACHED
APCD	<input type="checkbox"/>	NONE	<input checked="" type="checkbox"/>	ATTACHED
E.H.S.	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
FIRE / OES	<input type="checkbox"/>	NONE	<input checked="" type="checkbox"/>	ATTACHED
SHERIFF	<input checked="" type="checkbox"/>	NONE	<input type="checkbox"/>	ATTACHED
OTHER				

CEO's Office, Quechan Indian Tribe, Imperial Irrigation District, Agua Caliente Indian Tribe & City of Imperial

## **REQUESTED ACTION:**

STAFF RECOMMENDS THAT THE PLANNING COMMISSION HOLD A PUBLIC HEARING, HEAR ALL THE PROPONENTS AND OPPONENTS OF THE PROPOSED PROJECT, AND THEN TAKE THE FOLLOWING ACTIONS:

1. FIND THAT LOT MERGER #00191 IS CATEGORICALLY EXEMPT FROM CEQA PER ARTICLE 19, SECTION 15305 (MINOR ALTERATIONS IN LAND USE LIMITATIONS) AND THAT NO FURTHER ENVIRONMENTAL DOCUMENTATION IS NECESSARY; AND,
2. FIND THAT LOT MERGER #00191 IS CONSISTENT WITH APPLICABLE ZONING AND BUILDING ORDINANCES; AND
3. APPROVE LOT MERGER #00191, SUBJECT TO THE ATTACHED CONDITIONS.

Imperial County Planning & Development Services Department

801 MAIN ST., EL CENTRO, CA, 92243 442-265-1736,

Jim Minnick, Director of ICPDS

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BC ORIGINAL PKG

**STAFF REPORT**  
**Planning Commission Meeting**  
**December 18, 2025**

**Project Name:** Lot Merger (MERG) #00191

**Applicant:** Imperial Valley Computer Manufacturing, LLC  
16400 Pacific Coast Highway, Suite 212  
Huntington Beach, CA 92649

**Agent:** DuBose Design Group  
1065 State Street  
El Centro, CA 92243

**Project Location:**

The proposed project site is located at 2304 Clark Road, Imperial, CA, and consists of five (5) parcels and Leimgruber Road. These parcels are further identified as Assessor's Parcel Numbers 044-220-007, 044-220-042, 044-220-044, 044-220-045, and 044-220-046; legally described as The West 5 Acres of the South Half of the South Half of Tract 57; That Portion of Tract 57 as Shown and Delineated as Parcel 1 and A on Parcel Map #546; That Portion of Tract 57 as Shown and Designated as Parcel 2 on Parcel Map #653; That Portion of Tract 57 as Shown and Designated as Parcel 3 on Parcel Map #653; and, That Portion of Tract 57 as Shown and Designated as Parcel 1 of Parcel Map #653, respectively; Township 15 South, Range 14 East of the San Bernardino Base & Meridian (S.B.B.M.).

The proposed project area is bounded by Aten Road to the north, Clark Road to the west, active agricultural lands to the south, and the U.S. Border Patrol Station, El Centro Sector to the east. The site lies immediately adjacent to the city limits of both the City of El Centro and the City of Imperial.

**Project Summary:**

The Applicant proposes a Lot Merger to consolidate five (5) individual parcels and Leimgruber Road into a single  $\approx \pm 75.39$ -acre site for the future development of a Data Center Complex. The project would include ancillary infrastructure such as an electrical substation, an on-site Battery Energy Storage System (BESS) to support power backup, and emergency power generation through natural gas backup generators. The site is situated on previously disturbed agricultural and industrial lands.

Legal and physical access to the newly merged parcel would be provided via Aten Road and Clark Road. The Applicant intends to enter into a contract with a local municipality to

supply reclaimed water from the municipality's water treatment facility via a dedicated conveyance system. The reclaimed water would be piped and delivered to the project site for additional remediation, as required by the State of California and Imperial County Environmental Health Services.

All wastewater generated by the facility would be treated on-site through a proposed wastewater treatment system. Once treatment capacity is reached, the treated effluent would be conveyed to the Imperial Irrigation District's Central Drain located just south of the proposed project site.

**Existing Parcels Size:**

Parcel 1 (044-220-007) – ≈ +/- 5.00 acres

Parcel 2 (044-220-042) – ≈ +/- 4.95 acres

Parcel 3 (044-220-044) – ≈ +/- 9.74 acres

Parcel 4 (044-220-045) – ≈ +/- 10.01 acres

Parcel 5 (044-220-046) – ≈ +/- 45.69 acres

**Proposed Merged Parcel Size: ≈ +/- 75.39 acres**

**County Ordinance:**

Upon approval of a Road Abandonment application for Leimgruber Road by the Imperial County Board of Supervisors, Lot Merger #00191 will be consistent with the provisions of the Imperial County Land Use Ordinance (Title 9), Division 8 (Subdivision Ordinance), Section 90808.00, "Lot Mergers Initiated by Property Owner."

**Land Use Analysis:**

Pursuant to the Imperial County General Plan, the proposed project site is designated as "Urban Area." The zoning designations of the subject parcels are M-1-U (Light Industrial, Urban Overlay), M-2-U (Medium Industrial, Urban Overlay), and A-2-U (General Agricultural, Urban Overlay) in accordance with Zoning Map #1 of the Imperial County Land Use Ordinance (Title 9).

The proposed action under Lot Merger #00191 anticipates the combination of five (5) parcels and Leimgruber Road for the future development of a Data Center Complex within a designated Urban Area of the County of Imperial. The proposed Lot Merger would create a single ≈ +/- 75.39-acre parcel.

**Surrounding Land Uses, Zoning and General Plan Designations:**

DIRECTION	CURRENT LAND USE	ZONING	GENERAL PLAN
Project Site	Vacant Land / Industrial Building	<b>M-1-U</b> (Light Industrial, Urban Overlay) / <b>M-2-U</b> (Medium Industrial, Urban Overlay) / <b>A-2-U</b> (General Agriculture, Urban Overlay)	Urban Area
North	Residential	<b>City of Imperial</b>	<b>City of Imperial</b>
South	Agricultural Lands	<b>A-2-U</b> (General Agriculture, Urban Overlay)	Urban Area
East	U.S. Border Patrol Station, El Centro Sector	<b>City of Imperial</b>	<b>City of Imperial</b>
West	Vacant Industrial Lands	<b>M-2-U</b> (Medium Industrial, Urban Overlay)	Urban Area

**Environmental Determination:**

Pursuant to a review of the CEQA Guidelines, Lot Merger #00191 has been found to be categorically exempt from the requirements of CEQA in accordance with Article 19, Section 15305, Class 5 (Minor Alterations in Land Use Limitations). Accordingly, no further environmental documentation is required under State law.

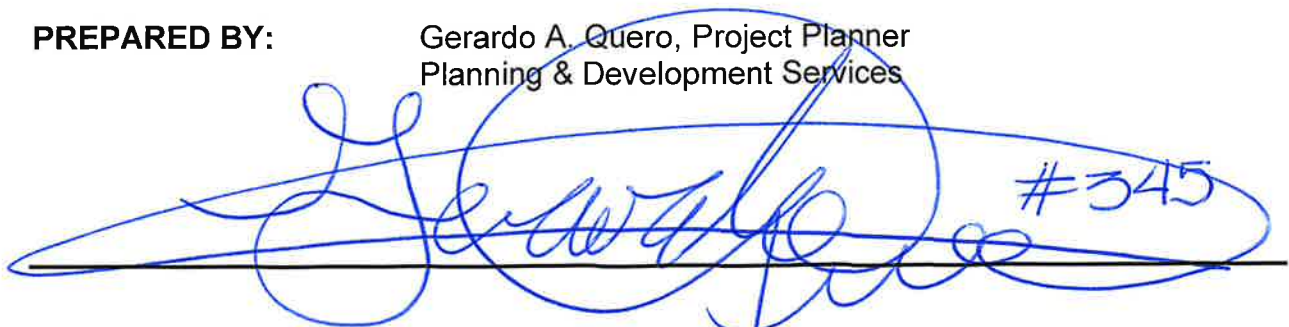
**Staff Recommendation:**

Staff recommends that the Planning Commission hold a public hearing, hear all the proponents and opponents of the proposed project, and then take the following actions:

1. Find that Lot Merger #00191 is categorically exempt from CEQA per Article 19, Section 15305 (Minor Alterations in Land Use Limitations) and that no further environmental documentation is necessary; and,
2. Find that Lot Merger #00191 is consistent with applicable Zoning and Building Ordinances; and,
3. Approve Lot Merger #00191, subject to the attached conditions.

**PREPARED BY:**

Gerardo A. Quero, Project Planner  
Planning & Development Services



PC ORIGINAL PKG

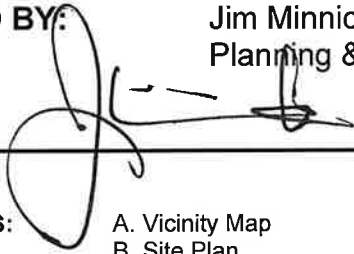
**REVIEWED BY:**

Michael Abraham, AICP, Assistant Director of  
Planning & Development Services



**APPROVED BY:**

Jim Minnick, Director of  
Planning & Development Services



**ATTACHMENTS:**

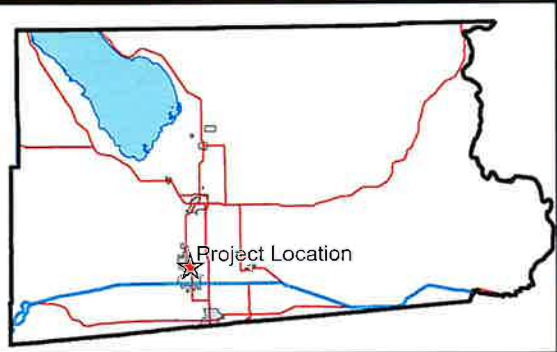
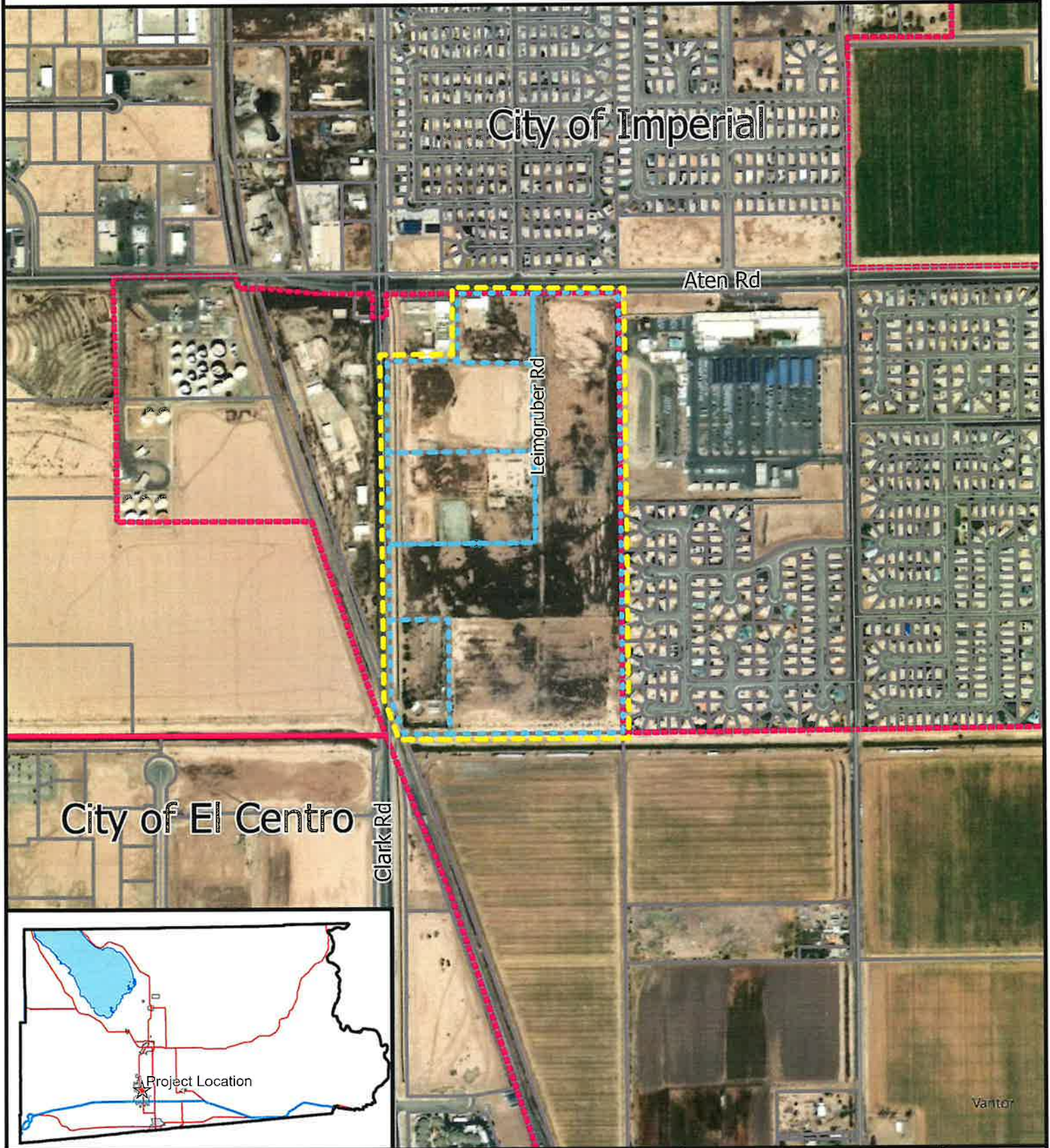
- A. Vicinity Map
- B. Site Plan
- C. PC Resolution & Findings
- D. MERG #00191 Conditions of Approval
- E. Applications & Supporting Documentation
- F. Comment Letters

S:\AllUsers\APN\044\220\007\MERG00191\PC\Staff Report\MERG00191 Staff Report.docx

**ATTACHMENT “A”**  
**VICINITY MAP**

PC ORIGINAL PKG

# PROJECT LOCATION MAP



**IMPERIAL VALLEY COMPUTER  
MANUFACTURING, LLC**  
**MERG #00191**  
**APN(S): 044-220-007, -042, -044,  
-045 & -046**

- Proposed Lot Merger
- Subject Parcels
- Imperial / El Centro City Limits
- Parcels
- Centerline



# **ATTACHMENT “B”**

## **SITE PLAN**

PC ORIGINAL PKG



**ATTACHMENT “C”**  
**PLANNING COMMISSION**  
**RESOLUTION**

PC ORIGINAL PKG

## RESOLUTION NO.

### A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, APPROVING "LOT MERGER #00191" IMPERIAL VALLEY COMPUTER MANUFACTURING, LLC.

**WHEREAS**, Imperial Valley Computer Manufacturing, LLC submitted an application for Lot Merger #00191 for a comprehensive Lot Merger to consolidate five (5) individual parcels and Leimgruber Road into a single  $\approx\pm 75.39$ -acre site for the future construction and development of a Data Center Complex; and,

**WHEREAS**, the project is exempt from the California Environmental Quality Act (CEQA), per Government Code 15305; 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 18, 2025; and,

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

**SECTION 1.** The Planning Commission has considered the proposed Lot Merger prior to approval. The Planning Commission finds and determines that the Lot Merger is adequately prepared in accordance with the requirements of the Imperial County General Plan, Land Use Ordinance, Subdivision Map Act, and California Environmental Quality Act (which assesses 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 regulations, the following findings for approving the Lot Merger #00191 have been made as follows:

**A. Are the lots or parcels contiguous?**

Upon the tentative approval of the Road Abandonment application for Leimgruber Road, the five (5) subject parcels will become contiguous, and the proposed merger will be consistent with the Subdivision Map Act as well as the County of Imperial Land Use Ordinance, Title 9, Division 8 (Subdivision Ordinance), Section 90808.00.

**B. The lot merger conforms to State Law and County Ordinance.**

The zoning designations of the subject parcels under MERG #00191 are M-1-U (Light Industrial, Urban Overlay), M-2-U (Medium Industrial, Urban Overlay), and A-2-U (General Agricultural, Urban Overlay) in accordance with Zoning Map #1 of the Imperial County Land Use Ordinance (Title 9).

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The proposed action under Lot Merger #00191 anticipates the combination of five (5) parcels and Leimgruber Road for the future development of a Data Center Complex within a designated Urban Area of the County of Imperial. The proposed Lot Merger would create a single  $\approx$  +/- 75.39-acre parcel.

In accordance with the provisions established in Chapter 1 of Division 5, Section 90501.01 (Single Base Zoning Area) of the Imperial County Land Use Ordinance, each lot or parcel of land within the unincorporated areas of Imperial County must be classified under a single base zoning designation. Upon approval of Lot Merger #00191, the predominant zoning designation of the project area, M-1-U (Light Industrial, Urban Overlay), will apply to the entire merged parcel. The designation will promote and ensure the orderly and consistent development of the proposed Data Center Complex in accordance with the guidelines and provisions as set forth in Section 90515.01, Subsection (bbb), Division 3 (Site & Design Standards), and Division 4 of the Imperial County Land Use Ordinance (Title 9).

- C. The lot merger is between lots or parcels that were created by a parcel or tract map consistent with the Subdivision Map Act and County Ordinance in effect at the time they were created.**

Upon the tentative approval of the Road Abandonment application for Leimgruber Road, the subject lots will be consistent with the Subdivision Map Act and County Ordinance.

- D. The lots or parcels are not separated or affected by any easement, right-of-way, road, alley or canal (including public utility easements).**

Upon the tentative approval of the Road Abandonment application for Leimgruber Road, the subject five (5) parcels will be contiguous, and the proposed merger will be consistent with the Subdivision Map Act and the County of Imperial Land Use Ordinance Title 9, Division 8 (Subdivision Ordinance), Section 90808.00, and will not result in any potential project-related or cumulative easement, right-of-way, road, alley, or canal impacts.

- E. The parcels as merged will not be deprived access as a result of the merger.**

The proposed project will not result in depriving access to any easement, right-of-way, road, alley, or canal (including private easements). The purpose of this lot merger is to consolidate five (5) individual parcels and Leimgruber Road into a single  $\approx$ ±75.39-acre site for the future development of a Data Center Complex. Legal and physical access to the proposed merged parcel would be via Clark and Aten Roads.

- F. Access to the adjoining parcels will not be restricted by the merger.**

Access to the adjoining lots will not be restricted by the merger. Should Lot Merger (MERG) #00191 be approved, legal and physical access to the proposed merged parcel would be via Clark and Aten Roads.

**G. The parcels, as merged, will not conflict with the location of any existing structures on the property.**

The lot merger would not conflict with the location of any existing structures on the property. The proposed project site is predominantly vacant, with only an existing unoccupied industrial building that fronts and has direct access along Aten Road.

**H. No new lots are created through the merger.**

The lot merger would not create any new parcels. Rather, the five (5) existing parcels would be combined to form one larger, contiguous parcel intended for the future development of a Data Center Complex.

**NOW, THEREFORE,** based on the above findings, the Imperial County Planning Commission **DOES HEREBY APPROVE** Lot Merger #00191, 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 18, 2025** by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

---

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

S:\ALLUSERS\APN\044\220\007\MERG00191\PC\PC RESOLUTION\MERG00191 PC RESOLUTION.DOCX

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**ATTACHMENT “D”**  
**MERG #00191 CONDITIONS OF**  
**APPROVAL**

PC ORIGINAL PKG

# CONDITIONS OF APPROVAL

## LOT MERGER (MERG) #00191

APN(s) # 044-220-007, 044-220-042, 044-220-044, 044-220-045 and 044-220-046

### **NOTICE TO APPLICANT!**

*The above-referenced Lot Merger, upon approval by the County, shall be subject to all of the following conditions, which may include modification or rescission, in whole or in part, by the PLANNING DIRECTOR, PLANNING COMMISSION and/or BOARD OF SUPERVISORS from the conditions recommended by staff. In the event any conditions are deferred the APPLICANT or any subsequent owner(s), shall comply with all of the CONDITIONS specified herein, whether at the time of recordation of the Map/Legal Descriptions or prior to any development permits. It is the obligation of the property owner (current or future) to comply with these conditions; hereinafter the term "applicant" shall mean the current and future owners. If approved, this project having been reviewed for compliance with the General Plan, the Subdivision Map Act and County Land Use Ordinance, the applicant shall comply with all of the requirements of said documents whether specified herein or not.*

### **GENERAL CONDITIONS:**

[General Conditions may be either advisory or mandatory depending on the condition. These conditions appear on all lot mergers as generic conditions; however they are as important as the Site Specific Conditions. The Planning Director established these conditions to be consistent, to be informative, and to cover a broad range of generic requirements and notices. The term applicant(s) shall mean the current and future owner(s) of record.]

**Unless expressly deferred in these conditions all conditions are to be satisfied prior to recordation of the lot merger.**

1. The applicant shall pay any and all amounts as determined by the County to defray all costs for the review of reports, field investigations, or other activities related to compliance with this permit/approval, County Ordinances, and/or any other laws that apply to this Lot Merger.
2. The applicant shall comply with all local, state and/or federal laws, rules, regulations, and/or standards as they may pertain to this project, whether specified herein or not.
3. As a condition of this Lot Merger, the applicant 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 lot merger 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 applicant, arising out of or in connection with the approval of this Lot Merger, whether or not there is concurrent, passive or active negligence on the part of the County, its agents, officers, attorneys, or employees.

4. Each parcel created or affected by this merger shall abut a maintained road and/or have legal and physical access to a public road before this Lot Merger is recorded.
5. Applicant 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 & Development Services Department upon further development.
6. The applicant shall comply with all County Fire Department regulations, rules and standards and shall meet all Fire Department requirements necessary to attain compliance upon further development. Any physical improvements required by the Fire Department shall be inspected and approved prior to a building permit being issued by the Planning & Development Services Building Department.
7. All applicable plans, reports, and studies shall be reviewed and approved by the respective responsible agencies when further development occurs for constructing or installing any site improvements and the installation of future improvements shall be reviewed, inspected, and approved by the respective responsible agency.
8. Applicant shall provide a full legal description acceptable to the Planning & Development Services Department, for review and approval by the County Department of Public Works. The legal description shall be prepared, signed and stamped along with closure sheets by a California Licensed Land Surveyor or a California Registered Civil Engineer licensed to practice in the category of work performed. The legal description shall be typed on plain bond paper (8 1/2" x11"). Letterhead is not acceptable.
9. Applicant shall obtain a **Tax Certificate** from the Tax Collector.
10. Applicant shall pay all applicable fees for the recordation of the **Certificate of Compliance and the Tax Certificate**.

**SITE SPECIFIC CONDITIONS:**

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1. Provide a Lot Merger prepared by a California-licensed Land Surveyor or Civil Engineer and submit to the Department of Public Works, for review and recordation. The Engineer must be licensed in the category required by the California Business & Professions Code.
2. Provide tax certificate from the Tax Collector's Office prior to recordation of the Lot Merger.
3. Approval of Lot Merger #00191 shall be contingent upon the tentative approval of the Leimgruber Road Abandonment Application.<sup>1</sup>

4. Prior to recordation of the Lot Merger #00191, the applicant shall provide evidence that all five (5) parcels have been deeded under the same ownership.<sup>1</sup>
5. The recordation of the lot merger shall be subject to the recordation of deeds of land exchange for all continuous parcels to be held by the same owner.<sup>2</sup>
6. The lots or parcels cannot be separated by or affected by an easement, right-of-way, road, alley or canal (including public utility easements). In order to proceed with the Lot Merger the applicant shall apply for a road vacation with the Imperial County Department of Public Works for the abandonment of Leimgruber Road, an existing public road, said vacation would be predicated upon the lot merger approval.<sup>2</sup>
7. The legal description and plat shall be prepared by a California Licensed Land Surveyor and submitted to the Imperial County Department of Public Works for review and approval.<sup>2</sup>
8. Each parcel affected by this lot line adjustment shall abut a maintained road and/or have legal and physical access to a public road.<sup>2</sup>
9. The applicant shall provide an Irrevocable Offer of Dedication (IOD) or dedicate the required portion for sufficient right of way for future development of Clark Rd, being classified as Major Collector - Collector with four (4) lanes, requiring eighty-four (84) feet of right of way, being forty-two (42) feet from the existing centerline. It is required that sufficient right of way be provided to meet this road classification. (As directed by Imperial County Board of Supervisors per Minute Order #6 dated 11/22/1994 per the Imperial County Circulation Element Plan of the General Plan).<sup>2</sup>

1 - Imperial County Planning & Development Services

2 - Imperial County Department of Public Works comment letter dated December 3, 2025

**ATTACHMENT “E”**  
**APPLICATIONS & SUPPORTING**  
**DOCUMENTS**

PC ORIGINAL PKG

# LOT MERGER

I.C. PLANNING & DEVELOPMENT SERVICES DEPT  
801 Main Street, El Centro, CA 92243 (442) 265-1736

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME Imperial Valley Computer Manufacturing, LLC	EMAIL ADDRESS Sebastian Rucci, Managing Member	
2. MAILING ADDRESS 16400 Pacific Coast Highway, Suite 212	ZIP CODE 92649	PHONE NUMBER (562)901-1099
3. ENGINEER'S NAME Maurico Lam	CAL. LICENSE NO. LS 8440	EMAIL ADDRESS mauriciolam@lcec-inc.com
4. MAILING ADDRESS 1065 State Street, El Centro, CA 92243	ZIP CODE 92243	PHONE NUMBER (760) 353-8110
5. PROPERTY "A" (site) ADDRESS 291 West Aten Road	LOCATION Intersection of Clark & Aten Road, Imperial County	
6. PROPERTY "A" ASSESSOR'S PARCEL NO.(s) 044-220-042	SIZE OF PROPERTY (in acres or square foot) 3.94 AC	
7. EXISTING USE Vacant Industrial Property	CURRENT ZONE M2-U	
8. PROPERTY "A" LEGAL DESCRIPTION (attach separate sheet if necessary) Please see attached legal description		
9. PROPERTY "B" (site) ADDRESS Please see additional Lot Merger Applications Provided	LOCATION Intersection of Clark & Aten Road, Imperial County	
10. PROPERTY "B" ASSESSOR'S PARCEL NO.(s) Please see additional Lot Merger Applications Provided	SIZE OF PROPERTY (in acres or square foot)	
11. EXISTING USE Please see additional Lot Merger Applications	CURRENT ZONE	
12. PROPERTY "B" LEGAL DESCRIPTION (attach separate sheet if necessary) Please see additional page total of 5 merged parcel.		
13. EXPLAIN PURPOSE/REASON FOR LOT MERGER To accomodate land to construct a Data Center and accessory uses such as a substation, battery back-up, and generater back up. Please see site plan for reference.		
14. PROPOSED MERGED PARCEL SIZE Total 5 parcels merged 71.14 AC	PROPOSED USE Please see additional Lot Merger Applications	

**PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)**

15. DESCRIBE PROPOSED SEWER SYSTEM(s)	On site treatment
16. DESCRIBE PROPOSED WATER SYSTEM	<del>HD North Gate Canal, Gate NDA 44, on-site treatment, reclaimed water</del> SEE PROJECT DESCRIPTION 91
17. DESCRIBE PROPOSED ACCESS TO MERGED PARCEL	Existing Access points Aten Road and Labrucherie Road
18. IS THIS PARCEL PLANNED TO BE ANNEXED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, TO WHAT CITY or DISTRICT?

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT.  
Sebastian Rucci, Managing Member  
of Imperial Valley Computer Manufacturing LLC 10.3.25

Print Name (owner) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (owner) \_\_\_\_\_

Print Name (Agent) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (Agent) \_\_\_\_\_  
An owners notarized affidavit is required if application is signed by Agent.

**REQUIRED SUPPORT DOCUMENTS**

- A. SITE PLAN
- B. PROPOSED LEGAL DESCRIPTION
- C. PRELIMINARY TITLE REPORT (6 months or newer)
- D. FEE \_\_\_\_\_
- E. OTHER \_\_\_\_\_

APPLICATION RECEIVED BY: _____	DATE _____	REVIEW / APPROVAL BY OTHER DEPT'S required.
APPLICATION DEEMED COMPLETE BY: _____	DATE _____	<input type="checkbox"/> P. W.
APPLICATION REJECTED BY: _____	DATE _____	<input type="checkbox"/> E. H. S.
TENTATIVE HEARING BY: _____	DATE _____	<input type="checkbox"/> A. P. C. D.
FINAL ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	DATE _____	<input type="checkbox"/> O. E. S.
		<input type="checkbox"/> _____
		<input type="checkbox"/> _____

**MERG#**  
00191

# LOT MERGER

I.C. PLANNING & DEVELOPMENT SERVICES DEPT  
801 Main Street, El Centro, CA 92243 (442) 265-1736

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME Imperial Valley Computer Manufacturing, LLC	EMAIL ADDRESS sebastian@ruccilaw.com/ tom@dubosedesigngroup.com	
2. MAILING ADDRESS 16400 Pacific Coast Highway, Suite 212	ZIP CODE 92649	PHONE NUMBER (562) 901-0199
3. ENGINEER'S NAME Maurico Lam	CAL. LICENSE NO. LS 8440	EMAIL ADDRESS mauriciolam@lcec-inc.com
4. MAILING ADDRESS 1065 West State Street	ZIP CODE 92243	PHONE NUMBER (760) 353-8110
5. PROPERTY "A" (site) ADDRESS N/A See Legal Description	LOCATION Intersection of Clark & Aten Road, Imperial County	
6. PROPERTY "A" ASSESSOR'S PARCEL NO.(s) 044-220-044	SIZE OF PROPERTY (in acres or square foot) 9.77	
7. EXISTING USE Vacant Industrial Property	CURRENT ZONE M2-U	
8. PROPERTY "A" LEGAL DESCRIPTION (attach separate sheet if necessary) See attached		
9. PROPERTY "B" (site) ADDRESS N/A See Legal Description	LOCATION Intersection of Clark & Aten Road, Imperial County	
10. PROPERTY "B" ASSESSOR'S PARCEL NO.(s) 044-220-045	SIZE OF PROPERTY (in acres or square foot) 10.01	
11. EXISTING USE Vacant Industrial Property	CURRENT ZONE M2-U	
12. PROPERTY "B" LEGAL DESCRIPTION (attach separate sheet if necessary) See attached		
13. EXPLAIN PURPOSE/REASON FOR LOT MERGER to accomodate land to construct a data center and accessory uses such as a substation, battery back-up, and generater back up. Please see site plan for reference.		
14. PROPOSED MERGED PARCEL SIZE Total 5 parcels merged 71.14 AC	PROPOSED USE Data Center and Complimentary Uses	

PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)

15. DESCRIBE PROPOSED SEWER SYSTEM(s)	On site treatment
16. DESCRIBE PROPOSED WATER SYSTEM	SEE PROJECT DESCRIPTION AND IID - North Gate Canal, Gate NDA 44, onsite treatment & reclaimed water
17. DESCRIBE PROPOSED ACCESS TO MERGED PARCEL	Existing Access points Aten Road and Labruschone Road
18. IS THIS PARCEL PLANNED TO BE ANNEXED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, TO WHAT CITY or DISTRICT?

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT.

Sebastian Rucci, Managing Member 10.3.25

Print Name (owner) \_\_\_\_\_ Date \_\_\_\_\_

Signature (owner) 

Print Name (Agent) \_\_\_\_\_ Date \_\_\_\_\_

Signature (Agent) \_\_\_\_\_  
An owners notarized affidavit is required if application is signed by Agent.

### REQUIRED SUPPORT DOCUMENTS

- A. SITE PLAN
- B. PROPOSED LEGAL DESCRIPTION
- C. PRELIMINARY TITLE REPORT (6 months or newer)
- D. FEE \_\_\_\_\_
- E. OTHER \_\_\_\_\_

APPLICATION RECEIVED BY: _____	DATE _____	REVIEW / APPROVAL BY OTHER DEPT'S required.
APPLICATION DEEMED COMPLETE BY: _____	DATE _____	<input type="checkbox"/> P. W.
APPLICATION REJECTED BY: _____	DATE _____	<input type="checkbox"/> E. H. S.
TENTATIVE HEARING BY: _____	DATE _____	<input type="checkbox"/> A. P. C. D.
FINAL ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	DATE _____	<input type="checkbox"/> O. E. S.
		<input type="checkbox"/> _____
		<input type="checkbox"/> _____

**MERG#**  
00191

PC ORIGINAL PKG

# LOT MERGER

I.C. PLANNING & DEVELOPMENT SERVICES DEPT  
801 Main Street, El Centro, CA 92243 (442) 265-1736

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME Imperial Valley Computer Manufacturing, LLC		EMAIL ADDRESS sebastian@ruccilaw.com/ tom@dubosedesigngroup.com	
2. MAILING ADDRESS 16400 Pacific Coast Highway, Suite 212		ZIP CODE 92649	PHONE NUMBER (562) 901-0199
3. ENGINEER'S NAME Maurico Lam		CAL LICENSE NO. LS 8440	EMAIL ADDRESS mauriciolam@lcec-inc.com
4. MAILING ADDRESS 1065 West State Street		ZIP CODE 92243	PHONE NUMBER (760) 353-8110
5. PROPERTY "A" (site) ADDRESS 2304 Clark Road, Imperial CA - 92251		LOCATION Intersection of Clark & Aten Road, Imperial County	
6. PROPERTY "A" ASSESSOR'S PARCEL NO.(s) 044-220-007		SIZE OF PROPERTY (in acres or square foot) 5 AC	
7. EXISTING USE Currently designated A-2 U, not in agricultural production			CURRENT ZONE A-2 U
8. PROPERTY "A" LEGAL DESCRIPTION (attach separate sheet if necessary) Please see attached.			
9. PROPERTY "B" (site) ADDRESS N/A- See Legal Description		LOCATION Intersection of Clark & Aten Road, Imperial County	
10. PROPERTY "B" ASSESSOR'S PARCEL NO.(s) 044-022-046 <i>922-044-220-046</i>		SIZE OF PROPERTY (in acres or square foot) 42.3 AC	
11. EXISTING USE Vacant Industrial Property			CURRENT ZONE M-1 N U
12. PROPERTY "B" LEGAL DESCRIPTION (attach separate sheet if necessary) See attached			
13. EXPLAIN PURPOSE/REASON FOR LOT MERGER To accomodate land to construct a Data Center and accessory uses such as a substation, battery back-up, and generater back up. Please see site plan for reference.			
14. PROPOSED MERGED PARCEL SIZE Total 5 parcels merged 71.14 AC		PROPOSED USE Data Center and Complimentary Uses	

PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)

15. DESCRIBE PROPOSED SEWER SYSTEM(s)	On site treatment <i>SEE PROJECT DESCRIPTION</i>
16. DESCRIBE PROPOSED WATER SYSTEM	<del>IID- North Gate Canal, Gate NDA 44, on-site treatment &amp; reclaimed water</del>
17. DESCRIBE PROPOSED ACCESS TO MERGED PARCEL	Proposed access through existing Clark Road & existing access Aten & <del>Lahmache</del> Road
18. IS THIS PARCEL PLANNED TO BE ANNEXED?	IF YES, TO WHAT CITY or DISTRICT?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT  
Sebastian Rucci, Managing Member  
of Imperial Valley Computer Manufacturing LLC 10.3.25

Print Name (owner) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (owner) \_\_\_\_\_

Print Name (Agent) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (Agent) \_\_\_\_\_  
An owners notarized affidavit is required if application is signed by Agent.

### REQUIRED SUPPORT DOCUMENTS

- A. SITE PLAN
- B. PROPOSED LEGAL DESCRIPTION
- C. PRELIMINARY TITLE REPORT (6 months or newer)
- D. FEE \_\_\_\_\_
- E. OTHER \_\_\_\_\_

APPLICATION RECEIVED BY: _____	DATE _____	REVIEW / APPROVAL BY OTHER DEPT'S required.
APPLICATION DEEMED COMPLETE BY: _____	DATE _____	<input type="checkbox"/> P. W.
APPLICATION REJECTED BY: _____	DATE _____	<input type="checkbox"/> E. H. S.
TENTATIVE HEARING BY: _____	DATE _____	<input type="checkbox"/> A. P. C. D.
FINAL ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	DATE _____	<input type="checkbox"/> O. E. S.
	DATE _____	<input type="checkbox"/> _____
	DATE _____	<input type="checkbox"/> _____

**MERG#**  
00191

PC ORIGINAL PKG









# Project Description

## **Lot Merger**

Prepared For:  
Imperial County Planning & Development Services  
801 Main Street  
EL Centro, CA - 92243

By : Dubose Design Group, Inc.  
1065 West State Street  
EL Centro, CA -92243

**PC ORIGINAL PKG**

CONTENTS

Lot Merger .....3  
Proposed Development:.....3  
Proposed Zoning.....3  
Utilities & ACCESS.....4  
    Water & Wastewater:.....4  
    Power.....4  
    Access .....4

## LOT MERGER

**Client:** Imperial Valley Computer Manufacturing, LLC

**Planning:** Dubose Design Group, Inc.

**Location:** Intersection of Clark & Aten Road

**Project Size:** +/- 71.14 Acres

**APN:** 004-220-007, 004-220-042, 004-220-044, 044-220-045, 044-220-046

### PROPOSED DEVELOPMENT:

The applicant is seeking to merge five parcels to accommodate the siting of a proposed data center development as well as the ancillary uses such as a substation, battery backup, and generator back up (see designed reviewed site plan attached, DR #25-0006), the project site is located within the County of Imperial. For the purposes of the applicant's vision for this project the applicant is seeking to maximize the total acreage of 71.14 acres of combined land and merge the properties to bring the project into fruition.

Assessor's Parcel Number	Current Zoning	Acreage
044-220-007	A-2 U	5.00 AC
044-220-042	M2-U	3.94 AC
044-220-044	M2-U	9.77 AC
044-220-045	M2-U	10.01AC
044-220-046	M-1 N-U	42.30 AC
<b>Total</b>		<b>71.14 AC</b>

### PROPOSED ZONING

Proposed Parcel	Proposed Zoning	Acreage
Proposed Parcel	M-1 N-U	71.14 AC

## UTILITIES & ACCESS

---

### WATER & WASTEWATER:

The applicant intends to contract with a local municipality who can serve the project reclaim water from their water treatment facility and through a separate conveyance system. The reclaim water will be piped and delivered to the project site for further remediation required by the State of California and Imperial County Environmental Health Services. The project site will have its own water treatment facility with the capability to recycle water until exhausted then return the water into the Central Drain. The reclaimed water delivery is not subject to LAFCO review and approval. The applicant understands that permits from the California State Water Board will need to be obtained as reclaim water from a California treatment plant. The reclaimed facility will be built to the standards and guidelines set forth by the State of California in regard to the specific regulations that would result in a multi-step process that includes preliminary screening, primary and secondary treatment, and tertiary treatment like disinfection or advanced purification. The applicant intends to work with the State of California and the local municipality to have established clear guidelines for various uses, including landscape irrigation (non-potable) and directly to drinking water supplies (direct potable reuse - DPR), with DPR requiring specific permits from the State Water Board. A wastewater treatment package will need to be installed to accommodate the project on site according to the County of Imperial's Environmental Health Guidelines. Please see previously reviewed and submitted Site Plan for location of water and wastewater treatment facility.

---

### POWER

Energy will be delivered by way of IID's S line and R line to a substation site located on the south portion of the project site. please see previously reviewed site plan.

---

### ACCESS

Proposed access will be through Clark Road and Aten Road



**ATTACHMENT “F”**  
**COMMENT LETTERS**

PC ORIGINAL PKG

COUNTY EXECUTIVE OFFICE

**Dr. Kathleen Lang**  
County Executive Officer  
[kathleenlang@co.imperial.ca.us](mailto:kathleenlang@co.imperial.ca.us)  
[www.co.imperial.ca.us](http://www.co.imperial.ca.us)



County Administration Center  
940 Main Street, Suite 208  
El Centro, CA 92243  
Tel: 442-265-1001  
Fax: 442-265-1010

RECEIVED

October 20, 2025

OCT 20 2025

IMPERIAL COUNTY  
PLANNING & DEVELOPMENT SERVICES

TO: Diana Robinson, Planning and Development Services Department

FROM: Rosa Lopez-Solis, Executive Office 

SUBJECT: Imperial Valley Computer Manufacturing LLC - Data Center Project – APNs 044-220-007-001, 044-220-042-001, 044-220-044-001, 044-220-045-001, 044-220-046

The County of Imperial Executive Office is providing comments on the Imperial Valley Computer Manufacturing LLC - Data Center Project – APNs 044-220-007-001, 044-220-042-001, 044-220-044-001, 044-220-045-001, 044-220-046. The Executive Office would like to inform the developer of the conditions and responsibilities that will apply if the applicant seeks approval of a future data center and with substation, battery back-up and generator back up. Prior to the issuance of any grading permit the following shall be completed and submitted:

- Sales Tax Guarantee. The permittee is required to have a Construction Site Permit reflecting the project site address, allowing all eligible sales tax payments are allocated to the County of Imperial, Jurisdictional Code 13998. The permittee will provide the County of Imperial a copy of the CDTFA account number and sub-permit for its contractor and subcontractors (if any) related to the jobsite. Permittee shall provide in written verification to the County Executive Office that the necessary sales and use tax permits have been obtained, prior to the issuance of any grading permits.
- At developers cost, the County Executive Office shall hire a third-party consultant to produce a Fiscal and Economic Impact Analysis & Job and Employment Analysis (FEIA & JEIA) prior to project being approved.

Should there be any concerns and/or questions, do not hesitate to contact me.

RECEIVED

NOV 03 2025

**Olivia Lopez**

**From:** Jill McCormick <historicpreservation@quechantribe.com>  
**Sent:** Monday, November 3, 2025 9:09 AM  
**To:** Olivia Lopez; Gerardo Quero  
**Subject:** Re: [EXTERNAL]:AB 52 Letter - Imperial Valley Computer Manufacturing, LLC (MERG#00191)

IMPERIAL COUNTY  
PLANNING & DEVELOPMENT SERVICES

**CAUTION: This email originated outside our organization; please use caution.**

Good morning,  
This email is to inform you that the Historic Preservation Office of the Ft. Yuma Quechan Tribe does not wish to comment on this project.

Jill

H. Jill McCormick, M.A.  
Historic Preservation Office  
Ft. Yuma Quechan Indian Tribe  
P.O. Box 1899  
Yuma, AZ 85366-1899  
Office: 760-919-3631  
Cell: 928-920-6521



---

**From:** Olivia Lopez <olivialopez@co.imperial.ca.us>  
**Sent:** Monday, November 3, 2025 10:05 AM  
**To:** Tribal Secretary <tribalsecretary@quechantribe.com>; Jill McCormick <historicpreservation@quechantribe.com>  
**Cc:** Jim Minnick <JimMinnick@co.imperial.ca.us>; Michael Abraham <MichaelAbraham@co.imperial.ca.us>; Diana Robinson <DianaRobinson@co.imperial.ca.us>; Gerardo Quero <gerardoquero@co.imperial.ca.us>; Adriana Ceballos <adrianceballos@co.imperial.ca.us>; Aimee Trujillo <aimeetrujillo@co.imperial.ca.us>; Kamika Mitchell <kamikamitchell@co.imperial.ca.us>; Kayla Henderson <kaylahenderson@co.imperial.ca.us>; Olivia Lopez <olivialopez@co.imperial.ca.us>; Valerie Grijalva <valeriegrijalva@co.imperial.ca.us>; Vanessa DeLaTeja <vanessadelateja@co.imperial.ca.us>  
**Subject:** [EXTERNAL]:AB 52 Letter - Imperial Valley Computer Manufacturing, LLC (MERG#00191)

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

Please see attached AB52 letter for Imperial Valley Computer Manufacturing, LLC (MERG#00191); APN 044-220-007, 044-220-044, 044-220-045, & 044-220-046.

Should you have any questions, please feel free to Gerardo Quero at (442) 265-1736, or by email at [GerardoQuero@co.imperial.ca.us](mailto:GerardoQuero@co.imperial.ca.us)

Thank you,

***Olivia Lopez***

*Office Technician*

IC Planning & Development Services

801 Main Street

El Centro, CA 92243

(P) (442) 265-1736

(F) (442) 265-1735



# IID

*A century of service.*

www.iid.com

*Since 1911*

Thursday, November 13, 2025

Gerardo Quero  
Planner II  
Planning and Development  
801 Main St.  
El Centro, CA 92243

**RECEIVED**

*By Imperial County Planning & Development Services at 2:31 pm, Nov 14, 2025*

SUBJECT: Imperial Valley Computer Manufacturing (APN: 044-220-007)

Dear Gerardo Quero:

On Monday, November 3, 2025, the Imperial Irrigation District received a request from the Imperial County Planning and Development Department for agency review for the Imperial Valley Computer Manufacturing project, located at 2304 Clark Rd., Imperial, CA 92251. The project consists of a proposal for a comprehensive Lot Merger to consolidate five (5) individual parcels into a single 74.33-acre site for the future construction and development of a Data Center. The project would include ancillary infrastructure such as an electrical substation, an on-site Battery Energy Storage System (BESS) to support power backup, and emergency power generation through natural gas backup generators. The site is situated on previously disturbed agricultural and industrial lands. Legal and physical access to the newly merged parcel would be provided via Aten Road and Clark Road. The applicant intends to enter into a contract with a local municipality to supply reclaimed water from the municipality's water treatment facility via a dedicated conveyance system. The reclaimed water would be piped and delivered to the project site for additional remediation, as required by the State of California and Imperial County Environmental Health Services. All wastewater generated by the facility would be treated on-site through a proposed wastewater treatment system. Once treatment capacity is reached, the treated effluent would be conveyed to IID's Central Drain.

IID has reviewed the project information and has the following comments:

1. The project proponent will be required to provide and bear all costs associated with acquisition of land, rights of way, easements, and infrastructure relocations and realignments deemed necessary to accommodate the project. Any street or road improvements imposed by the local governing authority shall also be at the project proponent cost.

2. Public utility easements over all private and public roads and additional ten (10) feet in width on both side of the private and public roads shall be dedicated to IID for the construction, operation, and maintenance of its electrical infrastructure.
3. Any new, relocated, modified or reconstructed IID facilities required for and by the project (which may include but is not limited to the dedication of real property for the purpose of siting an electrical utility substations to support the project, the cost of acquisition and dedication of rights of way and/or easements for the construction of electrical transmission and/or distribution lines and ancillary facilities associated with the conveyance of energy service) are to be included as part of the project's CEQA and/or NEPA documentation, environmental impact analysis and mitigation.
4. The applicant will be required to provide rights of ways and easements for any proposed power line extensions and/or any other infrastructure needed to serve the project. In addition, the necessary access to allow for continued operation and maintenance of any IID facilities located on adjoining properties where no public access exists.
5. Substations and switchyards shall be located on property that will transferred to IID in fee simple ownership with legal access.
6. If and when the customer is contemplating electrical service, please contact the areas service planner Mr. Ignacio Romo at 760-482-3426 or email at [IGRomo@IID.com](mailto:IGRomo@IID.com). Customer is required to apply with IID for electrical service to the project. In addition to submitting a formal application (available for download at <http://www.iid.com/home/showdocument?id=12923> ), the applicant will be required to submit an AutoCAD file of the site plan, approved electrical plans, electrical panel size and panel location, operating voltage, electrical loads & one-line diagrams, project schedule, and applicable fees, permits, easements and environmental compliance documentation pertaining to the provision of electrical service to the project. The applicant shall be responsible for all costs and mitigation measures related to providing electrical service to the project. Project will require a TCSP Application.
7. Electrical capacity is limited in the project area. A circuit study may be required. Any system improvements or mitigation identified in the circuit study to enable the provision of electrical service to the project shall be the financial responsibility of the applicant.
8. Applicant shall provide a surveyed legal description and associated exhibit certified by a licensed surveyor for all rights of way deemed by IID as necessary to accommodate the project electrical infrastructure. Rights-of-Way and easements shall be in a form acceptable to and at no cost to IID for installation, operation, and maintenance of all electrical facilities.

9. The five lot merger is for a proposed new data center to be located on APNs 044-220-007-000, 044-220-042-000, 044-220-044-000, 044-220-045-000, and 044-220-046-000. The parcels are southeast of the City of Imperial, south of West Aten Road, and east of Highway 86 and railway tracks.
10. IID Water Department facilities that could be impacted include the North Date Canal and the Central Drain.
11. To properly address impacts to IID Water Department facilities the project's plans are to be submitted to IID Water Department Engineering Services Section prior to final project design. IID Water Department Engineering Services Section should be contacted at (760) 339-9265 for information. Plans have been submitted to IID Water Department Engineering Services and the 11/10/25 IID Plan Review Letter for the Imperial Valley Data Center Campus Project with forms are attached.
12. The Applicant intends to enter into a contract with a local municipality to supply reclaimed water from the municipality's water treatment facility via a dedicated conveyance system. The reclaimed water would be piped and delivered to the project site for additional remediation, as required by the State of California and Imperial County Environmental Health Services. All wastewater generated by the facility would be treated on-site through a proposed wastewater treatment system. Once treatment capacity is reached, the treated effluent would be conveyed to IID's Central Drain.
13. Imperial County's (1) grading and drainage and (2) fencing plans are to be submitted to IID Water Department Engineering prior to final project design.
14. Any construction or operation on IID property or within its existing and proposed right of way or easements will require an encroachment permit or agreement that encompasses all IID permits, including but not limited to: surface improvements such as proposed new streets, driveways, parking lots, landscape; all water, sewer, storm water; and any other above ground or underground utilities. A copy of the encroachment permit application is included in IID's Developer Project Guide available at <http://www.iid.com/home/showdocument?id=2328>. For additional information regarding encroachment permits, the IID Real Estate Section should be contacted at (760) 339-9239.
15. An IID encroachment permit is required to utilize existing surface-water drainpipe connections to drains, and receive drainage service form IID. Surface-water drainpipe connections are to be modified in accordance with IID Water Department Standards. A construction storm-water permit from the California Regional Water Quality Control Board (CRWQCB) is required before commencing construction.

An industrial storm water permit from CRWQCB is required for operation of the proposed facility. The project's "Storm Water Pollution Prevention Plan" and "storm-water permit from CRWQCB" are to be submitted to IID.

16. In addition to IID's recorded easements, IID claims, at a minimum, a prescriptive right of way to the toe of slope of all existing canals and drains. Where space is limited and depending upon the specifics of adjacent modifications, the IID may claim additional secondary easements/prescriptive rights of ways to ensure operation and maintenance of IID's facilities can be maintained and are not impacted and if impacted mitigated. Thus, IID should be consulted prior to the installation of any facilities adjacent to IID's facilities. Certain conditions may be placed on adjacent facilities to mitigate or avoid impacts to IID's facilities.
17. Any new, relocated, upgraded or reconstructed IID facilities required for and by the project (which can include but is not limited to electrical utility substations, electrical transmission and distribution lines, water deliveries, canals, drains, etc.) need to be included as part of the project's CEQA and/or NEPA documentation, environmental impact analysis and mitigation. Failure to do so will result in postponement of any construction and/or modification of IID facilities until the environmental documentation is amended and environmental impacts are fully mitigated. Any and all mitigation necessary as a result of the construction, relocation, and/or upgrade of IID facilities is the responsibility of the project proponent.

Should you have any questions, please do not hesitate to contact IID at [iidenviornmental@iid.com](mailto:iidenviornmental@iid.com). Thank you for the opportunity to comment on this matter.

Respectfully,



Wayne K. Strumpfer  
General Counsel

Cc: Matthew H Smelser – Manager, Power Dept.  
Mike Pacheco – Manager, Water Dept.  
Tina Shields – Manager, Water Dept  
Paul Rodriguez – Deputy Mgr. Power Dept. Power Dept.  
Guillermo Barraza – Mgr. of Distribution Svcs. & Maint. Oprtns., Power Dept.  
Laura Cervantes – Supervisor, Real Estate  
Jessica Humes – Supervisor, Environmental Compliance Water

PC ORIGINAL PKG

AIR POLLUTION CONTROL DISTRICT



November 14, 2025

Mr. Jim Minnick  
Planning & Development Services Director  
801 Main St.  
El Centro, CA 92243

**RECEIVED**

By Imperial County Planning & Development Services at 3:44 pm, Nov 14, 2025

SUBJECT: MERGER 00191 IV Computer Manufacturing LLC

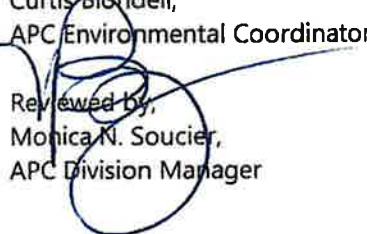
Dear Mr. Minnick:

The Imperial County Air Pollution Control District ("Air District") thanks you for the opportunity to review the application for Lot Merger 00191 located at 2304 Clark Road in Imperial, also identified as Assessor's Parcel Numbers 044-220-007, -042, -044, -045, and -046. Total combined acreage will be 71.14 acres. The merger of five (5) parcels will accommodate the construction and operation of a Data Center (project). An electrical substation, on-site battery energy storage System (BESS), 132 natural gas backup generators, and a water treatment facility are included in the project.

While the Air District has no comment on the actual merger itself, development of the project must comply with all rules and regulations. This includes project permit review by the Permitting & Engineering Division. The project must submit a **Construction Dust Control Plan** and a **Construction Notification** 10 days prior to the start of construction. The Air District encourages the applicant to maintain regular communication with the Air District as the project moves forward.

The Air District's Rules and Regulations and other forms can be accessed via the internet at <https://apcd.imperialcounty.org>. Should you have questions, please call our office at (442) 265-1800.

Sincerely,  
  
Curtis Blondell,  
APC Environmental Coordinator II

Reviewed By,  
  
Monica N. Soucier,  
APC Division Manager



Office of the Agricultural Commissioner  
Sealer of Weights and Measures  
852 Broadway, El Centro CA 92243

Jolene Dessert  
Commissioner / Sealer

Rachel Garewal  
Asst. Commissioner / Sealer

November 14, 2025

Gerardo Quero, Planner II  
Imperial County  
Planning & Development Services  
801 Main Street  
El Centro, CA 92243

**RECEIVED**

**NOV 14 2025**

Re: MERG00191

Dear Mr. Quero,

Our office has reviewed the documents pertaining to Merg00191 at 2304 Clark Road, Imperial, proposing a merging of lots for a data center.

Should the project require movement of plant material into Imperial County for landscaping purposes, the applicant must follow the requirements for movement of plant material into Imperial County from other counties or from out of state. The applicant can contact our Pest Detection and Eradication Division for any questions regarding the quarantines of movement of plant material, as there are several quarantines that must be observed.

Please refer to the handouts attached. The handouts will explain the need for the applicant to register their point-of-sale systems and scales (if applicable) with our office, and determining what type of scale(s) if any required by their operations. Please be advised that any commercial weighing and measuring devices such as device dispensers and/or scales are required to be type approved for commercial use and must be registered, inspected, and sealed by our office on an annual basis.

If you or the applicant have any questions, please feel free to contact our office at (442) 265-1500.

Best Regards,

A handwritten signature in blue ink that reads "Jolene Dessert".

Jolene Dessert



Office of the Agricultural Commissioner  
Sealer of Weights and Measures  
852 Broadway, El Centro CA 92243

Jolene Dessert  
Commissioner / Sealer

Rachel Garewal  
Asst. Commissioner / Sealer

March 15, 2025

To Landscapers, Nurseries, Retailers, Homeowners, and Planning Departments:

This letter is to remind you of the legal requirements you must follow for transporting plants and plant materials into Imperial County. There are numerous quarantines in place to safeguard landscape plants, the agricultural industry of Imperial County, and the whole of California from exotic pests and diseases. Please see the attached "Summary of Shipment Requirements and Quarantines," for information on quarantines that most commonly affect Imperial County.

**All plants coming into Imperial County are required by law to be held for inspection by the Agricultural Commissioner prior to planting or being made available for sale.** This applies to plants brought in by any party, including commercial businesses and homeowners. It is very important that our office is notified immediately upon arrival of any plant shipment. You must not commingle incoming shipments with other plants until after they are inspected and released by our office.

Call our office as early as possible to schedule an inspection. Inspectors are usually available Monday through Friday, 8:00 a.m. to 4:00 p.m. If you intend to bring a shipment in on a weekend or County holiday, please call ahead to see if an inspector will be available.

If you have any questions or concerns, our office is here to help. Please call us at (442) 265-1500.

Sincerely,

Nelson Perez  
Deputy Agricultural Commissioner  
Pest Detection and Eradication

## Summary of Shipment Requirements and Quarantines

- All nursery stock must be accompanied by valid proof of ownership.
- Nursery stock shipments may be released by phone at the discretion of the Agricultural Commissioner.
- Landscapers and other entities that have a growing ground or holding yard where nursery stock is held prior to delivery to the planting site must be licensed as a nursery.

## Pierce's Disease and the Glassy-winged Sharpshooter

The Pierce's Disease Control Program (PDCP) exists in California to prevent the artificial movement and spread of the glassy-winged sharpshooter (GWSS), a vector of Pierce's Disease. Pierce's Disease is caused by the bacterium *Xylella fastidiosa*. It is deadly to many plant species, and its vector, GWSS, has an extensive list of hosts including many agricultural crops and landscape plants. Imperial County is the only Southern California County not infested with GWSS.

It is unlawful to bring plants into Imperial County from inside the GWSS-infested area; however, nurseries located within the infested area may do so under a compliance agreement from their county's Agricultural Commissioner. It is lawful to bring plants in from a nursery within the infested area so long as they meet the terms of their compliance agreement. These terms include (but are not limited to):

- Notify the Imperial County Agricultural Commissioner (CAC) at least 24 hours prior to shipment.
- Shipment paperwork is stamped with a GWSS compliance agreement number.
- Shipment is accompanied by a "Blue Tag" shipping permit stating "Warning – Hold for Inspection".
- Shipment is accompanied by a valid Certificate of Quarantine Compliance (CQC), if applicable.

For additional information regarding the PDCP or GWSS, please visit <https://www.cdfa.ca.gov/pdcp/>.

## Other Plants with Quarantine Restrictions

- All **citrus species** from other California counties and other states.
- All **palms of the Phoenix genus**, including Pygmy Date Palms (*P. roebelenii*), except when originating from certain areas of Riverside County.
- Nursery stock originating in **Florida** (specifically Burrowing and Reniform Nematode [3 CCR § 3271] and Imported Fire Ant [7 CFR § 301.81]).
- Nursery stock originating in **Arizona** (specifically Ozonium Root Rot [3 CCR § 3261]).
- All **lettuce plants** are prohibited unless tested for Lettuce Mosaic Virus.
- All plants shipped *from* Imperial County must be certified free from Ozonium Root Rot by the CAC.

## Penalties for Failure to Comply with Requirements (California Food and Agricultural Code [FAC])

Any violation of quarantine requirements is an infraction punishable by a fine of one thousand dollars (\$1,000) for the first offense. Second and subsequent offenses within three years are punishable as misdemeanors. (FAC § 5309)

In addition to any other penalties, any person violating quarantine requirements may be liable civilly in an amount not exceeding ten thousand dollars (\$10,000) for each violation. (FAC § 5310)

In lieu of civil action, the Agricultural Commissioner (CAC) may levy a civil penalty of up to two thousand five hundred dollars (\$2,500) for each violation. (FAC § 5311)

Anyone who negligently or intentionally violates any state or federal law or regulation by importing any plant or other article infested by pest or disease and causes an infestation or causes the spread of an existing infestation beyond quarantine boundaries is liable civilly up to twenty-five thousand dollars (\$25,000) for each act that constitutes a violation. (FAC § 5028)



Office of the Agricultural Commissioner  
Sealer of Weights and Measures  
852 Broadway, El Centro CA 92243

Jolene Dessert  
Commissioner / Sealer

Rachel Garewal  
Asst. Commissioner / Sealer

## POINT-OF-SALE SCANNERS & ELECTRONIC PRICING DEVICES

The Imperial County Weighing and Measuring Devices and Point-of-Sale Systems ordinance (Chapter 5.68) requires businesses to register with the Imperial County Sealer of Weights and Measures Department and pay an annual registration fee. Registration certificate fees are based on the number of point of sale stations at each retail location. This registration certificate is required in addition to any other certificate, license or permit which may be required by the county, cities, or any public entity. Any registration certificate for which fees have not been paid within forty –five (45) days from the date that such payment is due, will be subject to a twenty percent (20%) penalty. See the attached fee schedule for reference.

All retail locations that utilize a point of sale system are subject to the county ordinance. Such systems include Universal Product Code (UPC) scanners, price look-up codes, or any other system that relies on the retrieval of electronically stored information to complete a transaction. Per the ordinance, all systems shall be available for testing and inspection by the county sealer of weights and measures.

The Imperial County Weights and Measures Office enforces the California Business and Professions Code as well as the California Code of Regulations as it pertains to point-of-sale systems. Below is a summary of applicable code sections:

In accordance to the California Business and Professions Code § 12024.2 and § 12024.6, it is unlawful for any person, at the time of sale of a commodity, to do any of the following:

- Charge an amount greater than the price, or to compute an amount greater than a true extension of a price per unit, that is then advertised, posted, marked, displayed, or quoted for that commodity.
- Charge an amount greater than the lowest price posted on the commodity itself or on a shelf tag that corresponds to the commodity, notwithstanding any limitation of the time period for which the posted price is in effect.

- No person, firm, corporation, or association shall advertise, solicit, or represent by any means, a product for sale or purchase if it is intended to entice a customer into a transaction different from that originally represented.

In accordance to the California Business and Professions Code sections § 13300-13303 and § 12024.6:

- Any business that uses a point-of-sale system must have a display of the prices charged visible to the customer from a reasonable and typical position
- When a price reduction or discount regarding an item is advertised, the checkout system customer indicator shall display either the discounted price for that item, or alternatively, the regular price and a credit or reduction of the advertised savings
- Any surcharges and the total value to be charged for the overall transaction also shall be displayed for the consumer at least once before the consumer is required to pay for the goods or services
- "Point-Of-Sale System" means any computer or electronic price look-up system that retrieves the price of the item being purchased

The Imperial County Sealer of Weights and Measures is authorized to levy a civil penalty against a person violating any provision of this law or regulation adopted pursuant to this law, of not more than one thousand dollars (\$1,000) for each violation.

Please remember that it is the responsibility of the owner/operator of a business to obtain a current registration from the Sealer's Office before using an electronic point-of-sale checkout system. Our office is open to the public from 8:00AM to 5:00PM, Monday through Friday. If you have any questions or need assistance, please contact us at (442) 265-1500. We will be happy to assist you.

Sincerely,



Margo Sanchez  
Deputy Sealer of Weights & Measures  
Special Projects Division

PC ORIGINAL PKG





Office of the Agricultural Commissioner  
 Sealer of Weights and Measures  
 852 Broadway, El Centro CA 92243

Jolene Dessert  
 Commissioner / Sealer

Rachel Garewal  
 Asst. Commissioner / Sealer

## 2025 Imperial County Weights and Measures Registration Fees

Fees are based on a statewide fee structure approved by the State Legislature and Governor. Fees partially offset the cost of administering the commercial weighing and measuring program and are based on the number and type(s) of devices and/or point-of-sale systems in use per location. These fees have been adopted in the Imperial County Ordinance Chapter 5.68 and are authorized by the California Business and Professions Code: Device Fees- Section 12240(f)-(t); Location Fees- Section 12240(u); State Administrative Fees- Section 12241, and California Code of Regulations Title 4, Division 9, Chapter 3, Article 3, Section 4075.

**All fees are due and payable January 1st.** Any registration certificate for which the fees have not been paid within forty-five (45) days from January 1st will be subject to a penalty of one-half the annual Registration Fee. Thereafter, continued failure to pay Registration Fees after ninety days (90) days may result in collection agency reporting and action.

**Device Location Fee: Each location (scanner/point-of-sale excluded) is charged a location fee of \$120.** A location is considered a business with one or more types of devices that require specialized testing equipment that will necessitate more than one trip. Additionally, if a commercial device is installed on a vehicle, each vehicle is considered a single location.

**Registration Fees = Location Fee per Location + County Device Fee per Device + DMS Admin Fee per Device**

Weights & Measures Fee Schedule				
Device Type	County Device Reg Fee	DMS Admin Fee	BPC 12240 Fee Cap	BPC 12240 Section
Animal Scale 2,000>10,000 lb	\$150.00	\$16.00		(h)
Class II Scale	\$80.00	\$2.20		(o)
CNG Compressed Natural Gas Meter	\$185.00	\$2.20		(l)
Computing Scale <100 lb	\$25.00	\$2.20	\$1,200.00	(n)
Computing Scale 100 lb<2,000 lb	\$50.00	\$2.20		(p)
Counter Scale <100 lb - interfaced with a cash register or any point-of-sale system	\$25.00	\$2.20	\$1,200.00	(n)
Counter Scale <100 lb	\$26.00	\$2.20	\$1,200.00	Not listed (t)
Counter Scale 100<2,000 lb	\$50.00	\$2.20		(p)
Dormant/Platform Scale <100 lb	\$26.00	\$2.20	\$1,200.00	Not listed (t)
Dormant/Platform Scale 100<2,000 lb	\$50.00	\$2.20		(p)
Dormant/Platform Scale 2,000>10,000 lb	\$150.00	\$16.00		(h)
Dormant/Platform Scale ≥10,000 lb	\$250.00	\$24.00		(h)
Electric Submeters	\$3.00	\$0.50		(g)
EVSE Electric Vehicle Charging Station	\$26.00	\$2.20	\$1,200.00	Not listed (t)
Fabric/ Wire/Cordage Meter	\$26.00	\$2.20	\$1,200.00	Not listed (t)
Hanging Scale <100 lb	\$26.00	\$2.20	\$1,200.00	Not listed (t)
Hanging Scale 100<2,000 lb	\$50.00	\$2.20		(p)
Hanging Scale 2,000>10,000 lb	\$150.00	\$16.00		(h)
High-Flow Motor Fuel Meter	\$26.00	\$2.20	\$1,200.00	Not listed (t)

Device Type	Couty Device Reg Fee	DMS Admin Fee	BPC 12240 Fee Cap	BPC 12240 Section
Hopper/Tank Scale 100<2,000 lb	\$50.00	\$2.20		(p)
Hopper/Tank Scale 2,000>10,000 lb	\$150.00	\$16.00		(h)
Hopper/Tank Scale ≥10,000 lb	\$250.00	\$24.00		(h)
LPG Liquified Petroleum Gas Meter	\$185.00	\$16.00		(l)
Livestock Scale 100<2,000 lb	\$50.00	\$2.20		(p)
Livestock Scale 2,000>10,000 lb	\$100.00	\$16.00		(k)
Livestock Scales ≥ 10,000 lb	\$150.00	\$16.00		(k)
Monorail/Meatbeam Scale 100<2,000 lb	\$50.00	\$2.20		(p)
Monorail/Meatbeam Scale 2,000>10,000 lb	\$150.00	\$16.00		(h)
Other Measuring Devices	\$26.00	\$2.20	\$1,200.00	Not listed (t)
Other Weighing Devices	\$26.00	\$2.20	\$1,200.00	Not listed (t)
Prescription/Jewelry Scales	\$80.00	\$2.20		(o)
Railway Scales ≥10,000 lb	\$250.00	\$24.00		(h)
Retail Meters (such as DEF)	\$26.00	\$2.20	\$1,200.00	Not listed (t)
Retail Motor Fuel Meters	\$26.00	\$2.20	\$1,200.00	Not listed (t)
Retail Water Meters	\$26.00	\$2.20	\$1,200.00	Not listed (t)
Vehicle Meters	\$75.00	\$2.20		(m)
Vehicle Scales ≥10,000 lb	\$250.00	\$24.00		(h)
Wholesale Meters	\$75.00	\$2.20		(m)

**Other Weights and Measures Fees**

Fee Name	Amount	Unit	Authority
Business Location Registration Fee	\$120.00	per location	BPC 12240(f)
Commercial Devices by Request - when inspection or testing could be performed by a registered service agency	Schedule of Uniform Fees prescribed by Secretary		BPC 12210.5

**Non-Commercial Device Inspections and Hourly Rates**

Scales (> or = 2,000 lb)	\$170.00	per hour	BPC 12210(b)
All other instruments/devices	\$85.00	per hour	BPC 12210(b)
Standby Time	\$85.00	per hour	BPC 12210(b)
Vehicle Mileage	Federal rate	per mile	BPC 12210(b)

**Price Verification Initial and Reinspection Fees**

Scanners (1-3)	\$160.00	per location	BPC 13350
Scanners (4-9)	\$205.00	per location	BPC 13350
Scanners (10 or more)	\$270.00	per location	BPC 13350

Effective: 8/3/2024



November 17, 2025

**RECEIVED**

*By Imperial County Planning & Development Services at 4:53 pm, Nov 17, 2025*

Imperial County Planning & Development Services  
801 Main Street  
El Centro, CA 92243

**RE: COMMENT LETTER – MERG00191 2304 CLARK ROAD PROJECT**

Dear Imperial County Planning and Development Services,

The Community Development Department for the City of Imperial has reviewed the proposed Lot Merger MERG00191 for the future development of a data center located near the intersection of Clark Road and Aten Road. The City has also reviewed the filed Notice of Exemption for Project Title: Grading Permit BP#63316 (Initial Study #25-0041) filed November 6, 2025. The City was not provided a copy of the underlying Grading Permit. The City did not review any backup associated with the Notice of Exemption.

City of Imperial's Planner, Yvonne Cordero, spoke to Imperial County Planning & Development Services staff on November 6, 2025. She was assured that the County was only collecting comments from agencies to assist with drafting conditions for the Lot Merger. Staff also confirmed that the County would hold a public hearing on this matter at a future date and provide written notice to landowners within 1000 feet.

The Notice of Exemption and the Lot Merger documents reference a zone change from agriculture to industrial, a full Data Center Complex that consists of 74.33 acres and an electrical substation, an on-site Battery Energy Storage System and natural gas generators. There is no reference to the details of this project (examples such as building size, and potential energy and water use). The comments the City of Imperial would provide on the entire project differ from the comments on just a Lot Merger. The City looks forward to receiving a complete project description, outline of the project and the ability to comment on the full project at the aforementioned public hearing.

The City welcomes and actively promotes development such as this data center. For example, the City is working with this applicant on providing reclaimed water from the City of Imperial facilities for what we believe to be the data center proposed for this site. But, a critical element of any development is involvement of our citizens in the approval process. The City prioritizes

feedback from our citizens when development projects are located within our City or Sphere of Influence. This project is located immediately adjacent to City of Imperial homes.

We formally request a clear outline of the project, an understanding of whether there will be a publicly noticed public hearing in front of the County of Imperial Environmental Evaluation Committee, the County of Imperial Planning Commission, the County of Imperial Airport Land Use Commission and/or the Planning Director or Board of Supervisors. We request that we be provided project details and opportunity to comment on the full project. Further, it is essential that the citizens in the immediate vicinity of Data Center Project be given an opportunity to comment.

Without the benefit of full project details or backup, the City provides the following comments:

### **City Services**

The project site is located directly adjacent to the City of Imperial's boundary and within close proximity to existing and planned urban development. Although the project is located in the unincorporated area, the scale and type of use may have operational, infrastructure, and public safety interactions with City services. For this reason, the City requests ongoing coordination throughout the review process.

### **Traffic and Circulation**

Due to the project's size and its reliance on Clark Road, Aten Road, and nearby regional routes, the City recommends that the County require a traffic study evaluating construction traffic, long-term operational traffic, and heavy vehicle turning movements. The study should evaluate any needed roadway improvements to ensure that project-related traffic does not adversely impact the City's roadway system near its boundaries.

### **Environmental Review**

The City requests that Imperial County include the City as a commenting agency and provide copies of all CEQA documents, including the exemptions, initial study, draft environmental impact report, traffic analysis, water supply analysis, and any technical studies associated with the project. Given the project's proximity to the City and the proposed industrial uses, the City requests early review of CEQA documents, including any cumulative impact analysis.

### **Imperial County Airport Land Use Commission Review**

Due to the location, the City requests information on when the Airport Land Use Commission will review this project.

### **Imperial County LAFCO Review**

Although the applicant has indicated that annexation is not planned at this time, the City recommends that the County require future coordination with LAFCO should any City service

connections, agreements, or infrastructure extensions be requested. Due to the project's proximity to the City boundary, long-term service coordination may be necessary.

The City of Imperial appreciates the opportunity to provide comments. We request that the County keep the City informed of all future project milestones, technical study releases, and public hearings. Please feel free to contact the Community Development Department should you need clarification or wish to coordinate further.

Sincerely,



---

Othon Mora, MCM, CBO  
Community Development Director  
City of Imperial | Community Development Department  
400 S. Imperial Avenue, Suite 101  
Imperial, CA 92251  
(760) 355-1152

## Gerardo Quero

---

**From:** THPO Consulting <ACBCI-THPO@aguacaliente.net>  
**Sent:** Monday, November 17, 2025 3:01 PM  
**To:** Olivia Lopez  
**Cc:** Jim Minnick; Michael Abraham; Diana Robinson; Gerardo Quero; Adriana Ceballos; Aimee Trujillo; Kamika Mitchell; Kayla Henderson; Valerie Grijalva; Vanessa DeLaTeja  
**Subject:** RE: AB 52 Letter - Imperial Valley Computer Manufacturing, LLC (MERG#00191)

**CAUTION:** This email originated outside our organization; please use caution.

Greetings,

A records check of the Tribal Historic Preservation Office's cultural registry revealed that this project is not located within the Tribe's Traditional Use Area. Therefore, we defer to the other tribes in the area. This letter shall conclude our consultation efforts.

Thank you,



Xitlaly Madrigal  
NAGPRA Supervisor  
[xmadrigal@aguacaliente.net](mailto:xmadrigal@aguacaliente.net)  
(760) 423-3485  
5401 Dinah Shore Drive, Palm Springs, CA 92264

RECEIVED

NOV 17 2025

IMPERIAL COUNTY

CLERK OF SUPERIOR COURT

**From:** Olivia Lopez <olivialopez@co.imperial.ca.us>  
**Sent:** Monday, November 3, 2025 9:06 AM  
**To:** THPO Consulting <ACBCI-THPO@aguacaliente.net>  
**Cc:** Jim Minnick <JimMinnick@co.imperial.ca.us>; Michael Abraham <MichaelAbraham@co.imperial.ca.us>; Diana Robinson <DianaRobinson@co.imperial.ca.us>; Gerardo Quero <gerardoquero@co.imperial.ca.us>; Adriana Ceballos <adrianaceballos@co.imperial.ca.us>; Aimee Trujillo <aimeetrujillo@co.imperial.ca.us>; Kamika Mitchell <kamikamitchell@co.imperial.ca.us>; Kayla Henderson <kaylahenderson@co.imperial.ca.us>; Olivia Lopez <olivialopez@co.imperial.ca.us>; Valerie Grijalva <valeriegrijalva@co.imperial.ca.us>; Vanessa DeLaTeja <vanessadelateja@co.imperial.ca.us>  
**Subject:** AB 52 Letter - Imperial Valley Computer Manufacturing, LLC (MERG#00191)

This email was sent by a person from outside your organization. Please verify the authenticity of this email before taking further action.

Good morning,

Please see attached AB52 letter for Imperial Valley Computer Manufacturing, LLC (MERG#00191); APN 044-220-007, 044-220-044, 044-220-045, & 044-220-046.

Should you have any questions, please feel free to Gerardo Quero at (442) 265-1736, or by email at [GerardoQuero@co.imperial.ca.us](mailto:GerardoQuero@co.imperial.ca.us)

PC ORIGINAL PKG

Thank you,

***Olivia Lopez***

*Office Technician*

IC Planning & Development Services

801 Main Street

El Centro, CA 92243

(P) (442) 265-1736

(F) (442) 265-1735

PC ORIGINAL PKG

**ADMINISTRATION / TRAINING**

1078 Dogwood Road  
Heber, CA 92249

**Administration**

Phone: (442) 265-6000  
Fax: (760) 482-2427

**Training**

Phone: (442) 265-6011

**OPERATIONS/PREVENTION**

2514 La Brucherie Road  
Imperial, CA 92251

**Operations**

Phone: (442) 265-3000  
Fax: (760) 355-1482

**Prevention**

Phone: (442) 265-3020

November 18, 2025

**RECEIVED**

RE: Lot Merger #00191  
Imperial Valle Computer Manufacturing LLC  
2304 Clark, Imperial CA 92251  
APN: 044-220-007, 042, 044, 045, 046

**NOV 24 2025**

**IMPERIAL COUNTY  
PLANNING & DEVELOPMENT SERVICES**

The Imperial County Fire Department would like to thank you for the opportunity to review and comment on the Imperial Valley Computer Manufacturing, Data Center Campus located at 2304 Clark Road.

Imperial County Fire Department has the following comments and/or requirements.

- An approved water supply capable of supplying the required fire flow determined by appendix B in the California Fire Code shall be installed and maintained. Private fire service mains and appurtenance shall be installed in accordance with NFPA 24.
  - Fire hydrant type and installation shall be in accordance with City of Imperial details and shall be approved by the fire code official
  - Fire hydrant will be required every 300 feet along approved fire access roads and within 150 feet of all Fire Department Connections (FDC)
  - Plans shall be submitted Imperial County Fire Department for review of all fire service main and appurtenance.
  - Fire Department Connections shall be located on the street side of the building fully visible and recognizable from the street or nearest point of fire department vehicle access.
- Fire department access roads shall be in accordance with the California Fire Code Chapter 5 section 503 Fire Apparatus Access Roads and Appendix D.
  - The fire apparatus access road shall extend within 150 feet of all portions of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility. Access roads shall be designed to provide unobstructed flow of traffic.
  - Fire apparatus access roads shall have an unobstructed width of not less than 26 feet and unobstructed vertical clearance of not less than 13 feet 6 inches.
  - Additional access shall be required providing multiple points of entry into the campus.
  - Turning radius shall be determined by the fire code official
  - Dead ends in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus. Shall be in accordance with Appendix D of the California Fire Code.

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Phone: (442) 265-3020

- Fire access roads shall be required approved notices or marking of the fire lane and shall be approved by the fire code official
- Gate or barricades shall be approved by the fire code official and be in accordance with section 503.5 through 503.6 of the California Fire Code and Appendix D
- Building(s) square footage and occupancy classification will determine if an approved automatic fire sprinkler system shall be installed in accordance with Chapter 9 of the California Fire Code and NFPA 13, 13R and 13D.
  - Plans shall be submitted to Imperial County Fire Department for review for all fire sprinkler and fire suppression system.
- Building(s) square footage and occupancy classification will determine if an approved automatic fire and smoke detection system shall be installed in accordance with Chapter 9 of the California Fire Code and NFPA 72
  - Plans shall be submitted to Imperial County Fire Department for review.
- Approved KNOX Box, locks, and or switches shall be required. Location(s) shall be approved by the fire code official
- Egress and egress components shall be in accordance with Chapter 10 of the California Fire Code.
- A pre-incident plan shall be developed and approved by the Imperial County Fire/OES Department in a format and using a platform determined by ICFD.

**Battery Energy Storage Systems**

- Approved all-weather access roads for fire protection vehicles shall be provided throughout the project, conforming with the California Fire Code Chapter 5, section 503. Access roadways shall be all-weather surface (suitable for use by fire apparatus) right-of-way not less than 20 feet in width.
- Additional access shall be provided to the project site in accordance with the California Fire Code Chapter 5, section 503. Minimum two points of entry shall be provided on the project site.
- KNOX Box and/or Locks will be required for all access gates as determined by Imperial County Fire Department.
- BESS sites shall be clear of all vegetation.
- An approved water supply capable of supplying the required fire flow determined by appendix B in the California Fire Code shall be installed and maintained. Private fire service mains and appurtenance shall be installed in accordance with NFPA 20, 22, 24
- An approved automatic fire suppression system shall be installed on all required structures as per the California Fire Code Chapter 12 and NFPA 855. All fire suppression systems will be installed and maintained to the current adapted fire code and regulations.

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- An approved automatic fire detection system shall be installed on all required structures as per the California Fire Code Chapter 12 and NFPA 855. All fire detection systems will be installed and maintained to the current adapted fire code and regulations.
- Signage shall be provided in accordance with the California Fire Code Chapter 12
- Compliance with all required sections of the fire code.
- Applicants shall provide product containment areas(s) for both product and water run-off in case of fire applications and retained for removal.
- Hazard Mitigation Analysis (HMA), Fire Risk Analysis, fire suppression and deflagration protection analysis submittals shall be from a CA licensed fire protection engineer approved by Imperial County Fire Department per CFC [A]104.7.2. Submittals shall have signature and seal.
- Owners and operators of ESS must develop an Emergency Operation Plan in conjunction with local fire service personnel, the AHJ, and hold a comprehensive understanding of the hazards associated with lithium-ion battery technology. Lithium-ion battery ESS's must incorporate adequate explosion prevention protection in accordance with NFPA 855 and/or California Fire Code Chapter 12.
- An emergency response/action plan shall be prepared and approved by the Imperial County Fire/OES Department.
- A pre-incident plan shall be developed and approved by the Imperial County Fire/OES Department in a format and using a platform determined by ICFD.
- A Hazardous Waste Material Plan shall be submitted to the Certified Unified Program Agency (CUPA) for their review and approval.
- All hazardous material and waste shall be handled, store, and disposed of as per the approved Hazardous Waste Materials Plan. All spills shall be documented and reported to the Imperial County Fire Department and CUPA as required by the Hazardous Waste Material Plan

**Emergency Evacuation Plan**

- The Imperial County Fire Department is requiring mitigation analysis of toxic smoke and hazards from BESS fires be conducted regarding impacts on the surrounding community. Mitigation analysis shall be prepared to address toxic smoke, explosion blast and other hazards related to BESS that will affect the surrounding residential and commercial zoning. This mitigation analysis should include public evacuation plans and/or shelter in place for the surrounding community. The applicant shall provide cost reimbursement for evacuations of the public due to hazards related to the project.

**Cost Recovery**

- The applicant shall provide cost reimbursement for direct fire protection services. Service rate will be consistent with Imperial County Fire Department adopted fee schedule. Cost

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reimbursement will be from time of call to the conclusion of the incident as defined by the fire department

Further plan reviews and assessments of the project could require additional comments and/or mitigations from the Imperial County Fire Department. Any changes to the project would require review and comments from the Imperial County Fire Department.

Again, thank you for the opportunity to comment. Imperial County Fire Department would like to express that the project will meet all applicable fire codes, NFPA standards, and any other regulations that pertain to the project.

If you have any questions, please contact the Imperial County Fire Prevention Division at 442-265-3020 or 442-265-3021.

Sincerely

Andrew Loper *Andrew Loper*  
Lieutenant/Fire Prevention Specialist  
Imperial County Fire Department  
Fire Prevention Division

CC

David Lantzer  
Fire Chief  
Imperial County Fire Department

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December 1, 2025

RE: Lot Merger #00191

Imperial Valle Computer Manufacturing LLC

2304 Clark, Imperial CA 92251

APN: 044-220-007, 042, 044, 045, 046



The Imperial County Fire Department would like to thank you for the opportunity to review and comment on Lot Merger #00191 for the Imperial Valley Computer Manufacturing, Data Center Campus located at 2304 Clark Road.

Imperial County Fire Department has the following comments and/or requirements.

- The Imperial County Fire Department has no additional comments at this time for Lot Merger #00191.
- Previous comments provided by the Imperial County Fire Department shall apply to the grading and building permit review as mentioned in the project description for the Data Center Complex.

Again, thank you for the opportunity to comment. Imperial County Fire Department would like to express that the project will meet all applicable fire codes, NFPA standards, and any other regulations that pertain to the project.

If you have any questions, please contact the Imperial County Fire Prevention Division at 442-265-3020 or 442-265-3021.

Sincerely

Andrew Loper

Lieutenant/Fire Prevention Specialist

Imperial County Fire Department

Fire Prevention Division

CC

David Lantzer

Fire Chief

Imperial County Fire Department

AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER

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Public Works works for the Public

COUNTY OF IMPERIAL

DEPARTMENT OF PUBLIC WORKS

155 S. 11th Street  
El Centro, CA  
92243

Tel: (442) 265-1818  
Fax: (442) 265-1858

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<https://twitter.com/CountyDpw/>

December 3, 2025

Mr. Jim Minnick, Director  
Planning & Development Services Department  
801 Main Street  
El Centro, CA 92243

**RECEIVED**

By Imperial County Planning & Development Services at 4:19 pm, Dec 03, 2025

Attention: Gerardo Quero, Planner II

**SUBJECT: LM 191 – Imperial Valley Computer Manufacturing, LLC;**  
Located on 2304 Clark Road, Imperial, CA 92251  
APNs 044-220-007, 042, 044, 045 & 046.

Dear Mr. Minnick:

This letter is in response to your submittal package received by this department on November 3, 2025 for the above mentioned project. The applicant proposes a comprehensive Lot Merger to consolidate five (5) individual parcels into a single acre site for the future construction and development of a Data Center. The project would include ancillary infrastructure such as an electrical substation, an on-site Battery energy Storage System (BESS) and an emergency power generation through natural gas backup generators.

Department staff has reviewed the package information. Please be aware if the following shall be conditions of approval as described:

1. The recordation of the lot merger shall be subject to the recordation of deeds of land exchange for all continuous parcels to be held by the same owner.
2. The lots or parcels cannot be separated by or affected by an easement, right-of-way, road, alley or canal (including public utility easements). In order to proceed with the Lot Merger the applicant shall apply for a road vacation with the Imperial County Department of Public Works for the abandonment of Leimgruber Road, an existing public road, said vacation would be predicated upon the lot merger approval.
3. The legal description and plat shall be prepared by a California Licensed Land Surveyor and submitted to the Imperial County Department of Public Works for review and approval.
4. Each parcel affected by this lot line adjustment shall abut a maintained road and/or have legal and physical access to a public road.
5. The applicant shall provide an Irrevocable Offer of Dedication (IOD) or dedicate the required portion for sufficient right of way for future development of **Clark Rd**, being classified as **Major Collector - Collector with four (4) lanes**, requiring **eighty-four (84)** feet of right of way, being **forty-two (42)** feet from the existing centerline. It is required that sufficient right of way be provided to meet this road classification. **(As directed by Imperial**

**County Board of Supervisors per Minute Order #6 dated 11/22/1994 per the Imperial County Circulation Element Plan of the General Plan).**

*As this project moves forward, additional requirements may come into place.*

Should you have any questions, please do not hesitate to contact this office. Thank you for the opportunity to review and comment on this project.

Respectfully,

John A. Gay, PE  
Director of Public Works

By:



Veronica Atondo, PE, PLS  
Deputy Director of Public Works - Engineering

PC ORIGINAL PKG



December 17, 2025

VIA EMAIL ONLY

Chairman, Rudy Schaffner  
Vice Chairman, Carson Kalin  
Russell Roben  
Tony Gallegos  
Sergio Cabanas  
Katheryn Cynthia Dunn  
Ernesto Medina  
Scott Wright  
Jose Hinojosa  
Planning Commission  
801 Main Street  
El Centro, CA 92243  
ICPDSCcommentLetters@co.imperial.ca.us

**RECEIVED**

DEC 17 2025

IMPERIAL COUNTY  
PLANNING & DEVELOPMENT SERVICES

**Subject:** December 18, 2025 Planning Commission Meeting; Agenda Item 2, Consideration of Lot Merger No. 00191

Dear Chairman Schaffner, Vice Chairman Kalin, and Honorable Members of the Planning Commission:

This firm represents the City of Imperial with regards to the Data Center Project. The Planning Commission is scheduled to consider a request by the applicant Imperial Valley Computer Manufacturing, LLC (“IVCM”) to merge five parcels and Leimgruber Road (the “Property”). The City urges the Planning Commission to deny the proposed lot merger for the reasons set forth in this letter, or in the alternative, send the application back to the Planning Department to be properly analyzed and processed in accordance with the State Subdivision Map Act, the California Environmental Quality Act (“CEQA”), State Planning and Zoning laws, and the Municipal Code. Among other items, the current proposal before the Planning Commission is based upon false information and violates the law:

- IVCM falsely certified in the lot merger application that it owns the entire Property. (Exhibit 1 [applications].) According to the County Assessor’s Office, IVCM does not. State law prohibits the filing of a map with the County that does not have written consent of all parties that have any record title interest. (Exhibit 2 [Gov. Code, § 66430].) This is a serious issue. A violation of the Subdivision Map Act is considered a misdemeanor. (Exhibit 3 [Gov. Code, § 66499.31].)

- The Subdivision Map Act only authorizes the merger of contiguous parcels that are ***under common ownership***. (Exhibit 4 [Gov. Code, § 66499.20.3].) The Planning Commission would be violating State law if it approved the lot merger.
- Leimgruber Road is a public roadway owned in fee by the County. The Subdivision Map Act does not authorize merging this Road with the other parcels because only “contiguous parcels under common ownership” can be merged and the Road is not owned by the adjacent property owners. Before the Road can be merged, the Board of Supervisors would have to vacate the Road and convey the ownership of the Road to a private entity that owns the contiguous parcels. The Planning Commission lacks authority and jurisdiction to merge the Road with the other parcels and to presume and act for the Board of Supervisors on the Road vacation.
- Municipal Code, section 90501.01 (Exhibit 5) does not permit the Planning Commission to rezone the Property M-1-U as part of the lot merger. Such an interpretation violates well-established State Planning and Zoning laws that designate rezones as a discretionary action that must be reviewed by the Planning Commission and **approved by the Board of Supervisors following a noticed public hearing**. (Exhibit 6 [Gov. Code, § 65856].) The Planning Commission would be violating State law if it rezoned the parcels as part of the lot merger.
- The lot merger does not qualify for an exemption under the CEQA Guidelines, section 15305, Class 5 (Minor Alternations in Land Use Limitations). The CEQA Guidelines (14 CCR § 15378, subd. (a)-(c)) requires that the entire Project including all of the components be considered together when making a CEQA determination and the construction of a million square foot data center is hardly a minor alteration to the Property.

It is difficult to imagine that the Planning Commission would want to normalize and establish a precedence of ignoring the Subdivision Map Act, CEQA, State Planning and Zoning laws, and the County Municipal Code by approving this lot merger.

#### **1. The Lot Merger Application is Faulty and Inaccurate.**

According to the lot merger application, the applicant attested that it was the sole legal owner of the Property. (Exhibit 1.) This is not accurate, and the County knows it is not. The certification of ownership on the lot merger application directly contradicts the application to the County for the grading permit that was accompanied by owner’s affidavits from three different landowners none of whom were IVCM. The City confirmed with the County Assessor that IVCM is not the owner of any of the parcels. Further, there would be no need for the County to condition the lot merger upon proof of single ownership after the lot merger is approved if the County were not aware that the lot merger application was inaccurate.

State law prohibits the filing of a map with the County that does not have written consent of all parties that have any record title interest. (Exhibit 7 [Gov. Code, § 66430].) The County Municipal Code follows State law requiring that a lot merger may only be initiated by the record property owner. (ICMC, § 90808.) Applications for land use permits are required to include the signature of the applicant and if the applicant is not the property owner, then the signature of the

owner or an owner's affidavit. (ICMC, § 90104.00(A).) There were no property owner affidavits submitted with the lot merger application; instead IVCM claimed to be the property owner when it is not. Every application must include a site plan that includes all proposed structures below and above ground. (ICMC, § 90104.00(B).) Applications under the Subdivision Map Act must include a preliminary title report and details of all parties with a legal interest in the property. (ICMC, § 90104.00(C).) This requirement was bypassed by the filing of an application in which the applicant falsely portrayed itself to be the owner of the parcels. Because the map cannot even be filed without this written consent, compliance with State law and the Municipal Code cannot be circumvented by imposing a condition requiring single ownership after the merger is approved.

The application should have been rejected. The County Municipal Code, section 90808.03 is clear that “[u]nder no conditions shall the Department accept an incomplete application and commence processing it, unless and until all necessary information and supporting documentation is provided.” Instead of rejecting the application, the County is asking the Planning Commission to approve a lot merger based on a false certification and one that lacks all property owner approval and consent.

**2. The Lot Merger is Not Authorized by the State Subdivision Map Act and the County Municipal Code Because the Parcels are Not Under Common Ownership.**

Contiguous parcels may be merged either by a legislative body or by a property owner petition. The applicant elected to proceed with a property owner petition. The Subdivision Map Act specifically authorizes a property owner to request the County merge parcels; **but, all of the parcels must be under common ownership.** (Exhibit 4 [Gov. Code, § 66499.20.3].) This prohibition serves multiple constitutional and policy purposes including protecting property rights by preventing involuntary takings, ensuring due process, and preventing property owners from manipulating ownership structures after merger proceedings begin. The County Municipal Code, section 90801.04(41) confirms that a lot merger means “the joining of two or more contiguous parcels of land under one ownership into one parcel.” Thus, the lot merger does not conform to State law and County Ordinance because the parcels to be merged are not under common ownership.

The County Municipal Code cannot be interpreted to permit the lot merger because the State Subdivision Map Act prohibits local ordinances that are not consistent with State law or conflict with the provisions of the Subdivision Map Act. (Gov. Code, §§ 66421, 66498.6 [local agencies do not have the option to disregard any state or federal laws, regulations, or policies.]) Imposing a condition that requires all the parcels to be deeded under the same ownership after the Planning Commission's approval and before the final map is recorded does not comply with the law. The parcels must be under single ownership **before** the lot merger is approved. Because the parcels are not under single ownership, a merger would be in violation of the State Subdivision Map Act and the County Municipal Code.

**3. The Lots Cannot Be Merger Because Leimgruber Road is Required to be Vacated by the Board of Supervisors First.**

Leimgruber Road bisects the proposed lot merger; the parcels to be merged are not contiguous. Leimgruber Road is a public roadway owned in fee by the County. Government Code section 66499.20.3 only authorizes the merger of *contiguous* parcels *under common ownership*. The Municipal Code aligns with the Subdivision Map Act by prohibiting parcels that are separated or affected by an easement right-of-way, road, alley or canal (including public utility easements) from being merged. (ICMC, §§ 90808.00, 90808.03.) The County is also a landowner whose consent is required before the Road can be merged with the other parcels. (Gov. Code, § 66430.) For the County to approve merging Leimgruber Road with adjacent parcels, the Board of Supervisors must first authorize a road vacation and transfer the parcel to the private owner of the neighboring land so that all the parcels to be merged are contiguous and under common ownership. The Subdivision Map Act does not allow for the merger of public roads with private property under section 66499.20.3.

The staff report confirms that the lot merger is not consistent with the Subdivision Map Act and Municipal Code until after the Imperial County Board of Supervisors approves a road abandonment application for Leimgruber Road. Compliance with the law is required *before* the merger is approved. According to the conditions of approval, it appears that the applicant has not even applied for the road vacation. Not only would approval of the lot merger be in violation of the law, but there is no certainty that the Road will be vacated because the Board's action is discretionary and resident support is required. Specifically, the Board must determine that the road is not needed now or in the future, but no evidence supports this conclusion. (St & Hwy Code § 8324.) Residents would need to join the application to vacate the road, and there is no indication that there are sufficient numbers of residents willing to do so. (St & Hwy Code § 8321.) The Planning Commission lacks authority and jurisdiction to presume the Board of Supervisors will approve the Road vacation at some undefined time in the future or to act on its behalf.

Further, the lot merger is also affected by several other easements. The County is requiring the dedication of right-of-way for the future development of Clark Road.<sup>1</sup> There is a Date Canel that runs along Clark Road. There are a number of other easements recorded upon the different parcels. The Municipal Code is clear that the Planning Commission cannot even consider a merger where the lots are separated by "separated by or affected by an easement, right-of-way, road, alley or canal (including public utility easements)." (ICMC, §§ 90808.00.)

**4. The Lot Merger is Not Consistent with Applicable Zoning Codes Because the Data Center Project is Not a Permitted Use.**

The Property has several different zoning designations under the County Municipal Code, specifically A-2U [General Agricultural within Urban Boundaries], M2-U [Medium Industrial within Urban Boundaries], and M-1-N-U [Light Industrial, No Residential within Urban Boundaries]. The Property is overlaid with the "U" zone designating it as an urban area. The Data Center Project is proposed to be located on this multi-zoned Property. (ICMC, § 90501.08.)

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<sup>1</sup> It is unclear whether the County is requiring the dedication of an easement or land in fee.

The purpose of requiring all applications include a site plan is to ensure that the proposed use is allowed.

Municipal Code, section 90508.1 identifies the particular uses that are permitted in the A-2 zone. A data center is not listed as a permitted use in A-2. No building or structure may be erected or use established that is not permitted in the zone. (ICMC, § 90501.06(A).) Municipal Code, section 90508.02 provides that a BESS is permitted in the A-2 zone with a CUP only if it is connected to an existing electrical power generation plant, which is not the case. Municipal Code, section 90508.03 states that “[a]ll other uses not expressly permitted by Section 90508.01 or 90508.02 are prohibited. Therefore, the Data Center Project including the BESS are not permitted uses on those portions of the Property zoned A-2.

Municipal Code, section 90515-01 identifies a data center within an enclosed building as a permitted use in M-1. However, a BESS, electrical power generation plant, transmission interconnection, substation, and data center yard require a CUP in the M-1 zone. Municipal Code, section 90516-01 identifies a data center within an enclosed building as a permitted use in the M-2 zone. However, a BESS, electrical power generation plant, transmission interconnection, and substation require a CUP in M-2. The Planning Commission cannot approve a lot merger for unpermitted uses.

#### **5. A Formal Rezoning Approval is Required Before the Lot Merger Can be Approved.**

The applicant asserts that Municipal Code, section 90501.01 (Exhibit 5) permits the Planning Commission to rezone the Property M-1-U as part of the lot merger. This is an inaccurate interpretation of the law. Municipal Code, section 90501.01 actually prohibits the Planning Commission from taking the action the applicant requests. Section requires that every parcel shall only be classified in only one base zone. It is not a permissive ordinance that establishes the process for rezoning; it is a prohibitive ordinance. The only exception to the prohibition on parcels having more than one zoning designation is for parcels greater than 40 acres that are zoned A-2/A-3 Traffic Corridor. None of the parcels have this zoning designation. This exception is not a grant of approval to the Planning Commission to rezone property.

The rezoning process is well-established. California Planning and Zoning laws require the legislative entity to approve a zone change. Government Code sections 65853-65857 establish a mandatory two-stage approval process for zoning amendments that change property from one zone to another. This process requires: (1) a planning commission hearing and written recommendation, followed by (2) a legislative body hearing where the board of supervisors must approve, modify, or disapprove the zoning amendment. California courts have consistently held that zoning amendments are legislative acts requiring legislative body approval, and that this approval is discretionary rather than ministerial.

The Municipal Code is consistent with State law providing that rezoning is a discretionary action that must be reviewed by the Planning Commission and **approved by the Board of**

**Supervisors following a noticed public hearing.**<sup>2</sup> (ICMC, §§ 90204.05-07.) The Planning Commission cannot approve a rezoning via a lot merger and supersede the authority and jurisdiction of the Board of Supervisors. Further, even if the Planning Commission could approve the rezone, which it cannot, the proper notices were not provided 20 days before the hearing. (Gov. Code, § 65854(b).)

**6. The Lot Merger is Inconsistent with the General Plan.**

The Subdivision Map Act, Government Code, section 66473.5 and the Municipal Code, section 90801.05 prohibits the creation of a subdivision that is inconsistent with the General Plan. Further, every request for a change of zone must be found to be consistent with the County's General Plan. (ICMC, § 90204.02.) The rule of general plan consistency is established by adopted California Planning and Zoning Laws and requires projects to be compatible with the objectives and policies of the adopted County General Plan. A project is inconsistent if it conflicts with a general plan policy that is fundamental, mandatory, and clear. (*Families Unafraid to Uphold Rural Etc. County v. Board of Supervisors* (1998) 62 Cal.App.4th 1332, 1341-42.) The most fundamental policies pertain to Land Use. The Data Center Project is not consistent with the General Plan:

a. The Data Center Project is inconsistent with the six basic concepts adopted by the Board of Supervisors in support of the General Plan: quality of life; safety for people and property; wide selection of social and economic opportunities; efficient use of natural; human and financial resources; clean air, water and land; and quiet, beautiful communities and rural areas.

b. The Data Center Project is inconsistent with Land Use Element, objective 3.1, protecting property and the public health, safety and welfare; objective 4.3, maintaining and requiring compatible land uses within the existing communities; and objective 4.4, limiting the establishment of non-residential uses in predominantly residential neighborhoods.

c. The General Plan prohibits the removal of land from agricultural categories unless for a renewable energy purpose, a mapping error occurred or "where a clear long term economic benefit to the County can be demonstrated through the planning and environmental review process."

(See also No. 8.s. below.)

The Municipal Code, section 90501.08 includes special provisions for "U" zoned parcels. The Municipal Code states that "[w]ith regard to urban areas around incorporated cities, it is the intent of the county of Imperial to adhere to the standards, rules, regulations and ordinances of said urban jurisdiction. To that end, the board of supervisors directs staff to work with their respective counterparts in the urban area and to use to the extent feasible and possible the urban area regulations in implementing any proposed land use action." The County General Plan states that

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<sup>2</sup> A zone change was not clearly noticed for approval by the Planning Commission and would likely violate the Brown Act.

for urbanizing areas surrounding incorporated cities it is intended to include zoning reclassifications based on the adopted land use plans of the cities.

The Property is designated by the City in the General Plan as Rail Served Industrial. This designation provides for industrial/agricultural uses that require rail access. The Data Center Project as currently proposed is not compatible with the General Plan designation. Data centers and BESS are not listed as permitted uses in this zone. Therefore, rezoning the Property contrary to the uses permitted by the City would be contrary to Imperial County Municipal Code, section 90501.08 and the General Plan.

## **7. The Lot Merger is Not Exempt from CEQA.**

The County claims that the lot merger is exempt under CEQA Guidelines, section 15305, Class 5 (Minor Alternations in Land Use Limitations). Such an exemption would violate CEQA.

Imperial County adopted CEQA regulations. (see chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.icpds.com/assets/planning/california-environmental-quality-act/ceqa-rules-final-board-approved-update-04-04-2017-pdf.pdf.) Section 7 of the County's CEQA regulations requires preparation of an initial study. If there is an initial study, it should have been made available to the public. If there is no initial study, then the County has violated its CEQA regulations by not preparing the document.

The proposed Class 5 exemption violates CEQA for the following reasons:

First, the County is required to consider the entire project in making a CEQA determination. "Project" means the whole of an action which has a potential for resulting in a direct physical change or a reasonably foreseeable indirect physical change in the environment." (14 CCR § 15378, subd. (a).) CEQA requires the entire project to be reviewed as a single action even if project components are subject to individual approvals. (14 CCR § 15378, subd.(a)-(c).) Agencies are not permitted to avoid environmental review by chopping up a project into small pieces. (*Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 284.) The lot merger is only one part of the Data Center Project.

The merged parcels are for the Data Center Project which includes: a 950,000 square foot data center building, one story and 35 feet high with 180 parking spaces; a large-scale battery energy storage system ("BESS") composed of Tesla Megapacks supplying 862 megawatt hour ("MWh"); electrical substation for 250-500 MW; cooling towers; 100 natural gas powered backup emergency generators connected to Southern California Gas Company's high pressure gas line located on Aten Road for continuous fuel supply to provide 330 MW of emergency power; retention basin; four 500,000 gallon storage tanks for water; on-site wastewater treatment center to treat some of the wastewater generated on the site and construction of a new line to convey untreated wastewater to Imperial Irrigation District's ("IID") central drain; dedicated conveyance system for reclaimed water that may require new plant upgrades; transmission interconnection to IID's 230kV "S" Line between IID's El Central switching station and San Diego Gas & Electric's Imperial Valley substation; and transmission interconnect to IID's 92 kV "R" Line.

None of these Project components have independent utility, including this lot merger. The serial approval of Project components as the County is doing violates CEQA.

Second, a CEQA exemption cannot be applied to only one portion of a project. (*Association for a Cleaner Environment v. Yosemite Community College Dist.* (2004) 116 Cal.App.4th 629, 640.) The County previously approved a grading permit claiming it was exempt from CEQA because it was a ministerial approval. Now, the County is taking the position that the lot merger is exempt because it does not involve any alterations in land. These positions are legally inapposite. The grading permit involves significant alterations of land and the lot merger proves the Project approvals are discretionary. Thus, the Project does not qualify for CEQA exemptions as a Class 5 minor alteration of land or ministerial approval.

Third, the City is a responsible agency. Under CEQA lead agencies have mandatory obligations to consult with responsible agencies before deciding whether a project is exempt from CEQA. (Pub. Res. Code, § 21080.3(a).) The required consultation did not occur. Had the County consulted with the City, the City would have objected to the County's decision that lot merger was exempt from CEQA, and instead would advise that an environmental impact report ("EIR") is required for the entire Data Center Project. The Subdivision Map Act likewise requires the Planning Commission consider the City's recommendations and concerns. (Gov. Code, § 66453(c).)

Fourth, the lot merger does not qualify for a Class 5 exemption. The Class 5 exemption applies to minor alterations in land use limitations that "do not result in any changes in land use or density" such as minor encroachment permits, lot line adjustments, reversions to acreage, etc. The examples in each Class can be relied upon to understand the scope of the exemption. (*California Farm Bureau Federation v. California Wildlife Conservation Bd.* (2006) 143 Cal.App.4th 173 189.) The scope of the Data Center Project is significant including a 950,000 square foot data center building, a BESS, electrical substation 100 gas powered backup emergency generators, etc. These are not the types of minor alterations identified as examples in the exemption.

Fifth, CEQA Guidelines, section 15300.2(c) qualifies exemptions by declaring certain exemptions inapplicable in some circumstances. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances. As discussed below, there is evidence that the data center will have a significant effect on the environment. Therefore, the Class 5 exemption does not apply.

Sixth, CEQA requires the County prepare an EIR if there is substantial evidence in light of the "whole record" that there is a fair argument that the project may have a significant effect on the environment (Pub. Res. Code, § 21080(d)). The record demonstrates that, among other things, the Data Center Project has the potential to cause significant impacts, including but not limited to:

a. Safety hazards (due to its propensity to deflagrate and release toxic gases) to nearby residences resulting from fires, explosions, and toxic and hazardous emissions from electrical failures, equipment overheating, etc. There is a potential risk of upset to the nearby tank farm.

These fires can be difficult to extinguish and can cause evacuations and impacts to emergency response capabilities.

b. A Project of this size on 74 acres will involve moving massive amounts of dirt (excavation and fill) for foundations, utility trenches, leveling, etc. The specific quantities for grading and excavation, including cubic yards moved, have not been made public. The Property appears from the County GIS maps to be more than 50 feet below sea level. To put the potential amount of excavation that might be required in perspective, moving just six inches of soil on this site equates to roughly 59,500 cubic yards, requiring about 5,000 truckloads (at 12 yards each) for removal or vice versa if six inches of soil are transported to the Property. In addition, there will be off-site construction and trenching for power lines, water lines, stormwater, street improvements, etc.

c. Air toxic and criteria pollutant emissions resulting from the operation of **100 gas powered backup emergency generators** and diesel fuel combustion associated with construction. The Imperial County Air Pollution Control District (“Air District”) has already determined that a health risk assessment (“HRA”) is required because the data center has a preliminary prioritization score higher than 10 in a million cancer risk, per a screening assessment performed by the Air District as part of the AB2588 “Hot Spots” program analysis. According to the Air District’s CEQA Air Quality Handbook project impacts are considered significant if the project has the potential to emit toxic or hazardous air pollutants even at a very low level of emissions because of the increased cancer risk to nearby populations. According to the Air District, this is also true of development projects which have the potential to emit toxic or hazardous air pollutants when located in close proximity to sensitive receptors, which is the case for this Data Center Project. (<chrome-extension://efaidnbnmnnibpcajpcglcleftindmkaj/https://apcd.imperialcounty.org/wp-content/uploads/2020/01/CEQAHandbk.pdf>) The HRA needs to be completed to determine whether there will be an increased cancer or hazard risk at any of the nearby residences as a result of the Project. The HRA needs to be available for public review and comment before any aspect of this Project is approved.

d. Imperial County is a nonattainment area for multiple National Ambient Air Quality Standards (“NAAQS”), specifically for ozone, PM10, and PM2.5. Both the construction and operation of the project will cause emissions that are precursors to ozone and fine particulates. Sources such as the natural gas engines, vehicles, and construction equipment emit pollutants like nitrogen oxides, carbon monoxide, carbon dioxide, volatile organic compounds, and methane. The Air District’s CEQA Air Quality Handbook sets forth thresholds of significance. The developer reports the engines alone would emit 133.8 lb/day NOx, 267.5 lb/day CO, and 93.5 lb/day VOC. Vehicle trips could conservatively add 12.6 lb/day Nox.<sup>3</sup> These two sources alone would exceed

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<sup>3</sup> According to the screening table, the vehicle trips alone from a warehouse that is 660,000 square feet would exceed the thresholds of significance. The Data Center is much larger. Warehouses are estimated to have 4.9 vehicle trips per parking space per day, which would be 882 estimated vehicle trips based on 180 parking spaces. The 6-county Southern California Association of Governments (“SCAG”) region average weekday vehicle trip length is 17.2 miles, which would be 15,170 miles per day.

the Air District's thresholds of significance NOx. The CEQA Air Quality Handbook also requires that the standard mitigation measures for construction equipment and fugitive PM10 must be implemented at all construction sites and the implementation of discretionary mitigation measures, as listed in Section 7.1, apply to those construction sites which are 5 acres or more for non-residential developments. These measures have not been imposed as conditions on the lot merger.

d. Increase in greenhouse gas emissions and the data center complex's carbon footprint. Data centers contribute significantly to global greenhouse gas ("GHG") emissions, estimated around 1-2% of the world's total, primarily from massive electricity use for servers and cooling, often sourced from fossil fuels, generators, and vehicles.

e. Noise and vibration from cooling systems and backup generators, and humming from power systems. Data center noise comes from massive cooling fans, HVAC systems, and backup generators, creating loud, persistent sounds (75-99+ dBA) that challenge nearby communities and affect workers, often characterized by bothersome low-frequency hums that standard measurements miss, leading to health concerns. (See; <https://www.youtube.com/watch?v=t-8TDOFqkQA>)

f. Traffic impacts and changes to traffic circulation. The intersection and roadways at Aten and Clark are designated to be major county arterials but are currently two-lane roads. Clark Road is the primary north/south route that connects the City of Imperial with the City of El Centro and surrounding areas. Aten Road serves as a vital transport link within the City of Imperial. Traffic congestion is already a concern at this intersection. The Data Center will increase vehicle trips and vehicle miles travelled associated with the facility's construction and operation that affects local roads, access points, and potential congestion that requires detailed studies of intersections, roadway capacity, truck turning, and security gate logistics. Requiring full roadway dedications will not resolve the major traffic issues generated by the data center, which the County will permit to operate before needed road improvements are completed. Further, the Imperial County Department of Public Works requires for new development projects that applicants submit a Preliminary Environmental Review to assess potential traffic impacts. (<chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://publicworks.imperialcounty.org/wp-content/uploads/2019/12/TrafficStudyReportPolicy.pdf>) The applicant should be required to comply with the County's Traffic Study Administrative Procedures before the Project is approved.

g. Storage and handling of hazardous and toxic materials. Data centers store hazardous materials like diesel, batteries (lead-acid, lithium), and cooling system chemicals (ammonia), requiring strict handling for safety. Emergency response plans need to be developed and practiced that include spill control and evacuation plans.

h. Visual and aesthetic impact of large windowless structures, cooling towers, substation, BESS, and transmission equipment. There needs to be an evaluation of how the data center's size, shape, and color affect views from nearby roads, homes, and parks as well as light and glare from the potential light pollution from building lights or backup generators impacting night skies or nearby residents.

i. Potential negative effects on property values. Data centers can negatively affect nearby property values primarily through noise (generators, cooling), visual blight (large concrete buildings), light pollution, increased traffic, heavy water/power usage impacting resources, and potential emissions, making homes less desirable.

j. Use of public funds for large infrastructure investment and the risk of stranded assets. The applicants have not entered into any agreements, nor are agreements required for the applicants to pay for all public improvements that need to be improved to serve the Data Center. The public and rate payers should not pay for these improvements. Further, the use of public funds for large infrastructure, such as power grids to support data centers, creates a significant risk of stranded assets if the projected data center demand does not materialize or if the facilities quickly become technologically obsolete. This could result in utilities and taxpayers shouldering the costs for unneeded capacity or outdated facilities

k. The Data Center's energy demand could lead to higher energy costs for residents and reliability issues. High energy demand from sources like data centers is a major factor in higher energy costs for residents and a cause of electricity grid reliability issues for consumers. The strain on the grid means a higher risk of system instability, including potential capacity shortages, voltage spikes and dips (which can damage appliances), and even forced blackouts if demand consistently outpaces supply.

l. Energy demand from equipment; strain on local power grids, potential increase in reliance on fossil fuels. In May 2025, IID Transmission Planning Department prepared a feasibility study for the Data Center Project ("Feasibility Study"). (See Exhibit 8 [Feasibility Study].) The Feasibility Study was prepared in response to a request from IVCM for the interconnection of the Data Center Project to the IID System at the 230kV 'S' line between the ECSS and SDG&E Imperial Valley substation. The Feasibility Study concluded that at a 500 MW load thermal and voltage violations were found under the following outage: "P1: Loss of 230kV 'S' One between 2320 kV Imperial Valley Substation and 230 kV IVCM Substation." In July 2025, IID Transmission Planning Department prepared a system impact study for the Data Center Project ("System Impact Study"). (See Exhibit 9 [System Impact Study].) The System Impact Study was prepared in response to a request from IVCM for the interconnection of the Data Center Project to the IID System at the 230kV 'S' line between IID's ECSS and SDG&E's Imperial Valley substation. As part of this System Impact Study, the IID evaluated the interconnection of 250 MW of load to assess potential system impacts and infrastructure requirements. IID deemed the Data Center Project feasible under the System Impact Study. However, IID assumed for both the Feasibility Study and System Impact Study that the majority of the power required to serve the load demanded by the Data Center Project would be imported because IID concluded that it did not have the capability to reliably support a large-scale load requiring continuous 24-hour service with existing resources. IID did not commit to serve the requested load. The applicants also requested IID conduct a System Impact Study for the transmission interconnect to IID's 92 kV 'R' Line. It is not known whether this study was conducted or a feasibility study, and if so, the results. This project should not be approved until IID can ensure capacity to serve the data center, that there will be no reliability issues associated with the service, and the ratepayers are protected from increased prices and stranded impacts.

m. Heat island effects. Data centers significantly contribute to the urban heat island (“UHI”) effect by releasing vast amounts of waste heat into city environments, raising local temperatures, worsening air quality, and increasing energy demand for cooling in nearby buildings. This heat, a byproduct of intense server operations, creates localized hot spots in an area that already experiences extreme heat. (See e.g., <https://eolios.eu/data-center/urban-heat-island-impact-study-for-data-centers/>.)

n. Data centers require massive amounts of water daily for cooling as well as generate significant wastewater. (See Exhibit 10 [EESI water consumption]; Exhibit 11 [Lincoln Institute].) IVCN asserts the data center will be supplied with reclaimed water from a municipality. But, to date no municipality has agreed to provide reclaimed water to the site for the data center. (See Exhibit 12 [El Centro Water Statement].) The Colorado River is operating under drought conditions, and IID is operating under a System Conservation Implementation Agreement and Deficit Irrigation Program that calls for further conservation. (See Exhibit 13 [IID Deficit Irrigation Program].) The data center’s water and wastewater requirements must be specified, with sources and availability identified, and off-site treatment capability confirmed.

o. The development of 74 acres will increase water runoff from more impervious surfaces and lead to the potential pollution of the on-site canal. Runoff picks up pollutants such as sediment, oil, grease, and chemicals from paved surfaces and can carry them untreated into local canal harming aquatic habitats and agricultural resources.

p. Disposal of electronic components that contain hazardous materials during decommissioning and maintenance raise the issue of whether there are sufficient recyclers to avoid disposal in landfills.

q. Habitat disruption. Vacant (fallowed or idle) agricultural land in Imperial County can potentially provide valuable habitat for special-status and critical species, particularly birds. Imperial Valley supports over 60% of California’s burrowing owls, making it a critical refuge, but habitat loss is a major concern. The property is within the Burrowing Owl Species Distribution Model according to the County General Plan. Two of California’s three flat-tailed horned lizard populations are in Imperial County, living in desert flats and washes, and are designated as a Species of Special Concern. Peirson’s Milkvetch is an endangered plant found in the Imperial Valley. The Crissal Thrasher and Yellow-breasted Chat are California Species of Special Concern found in the Valley’s riparian areas. The Desert Pupfish uses agricultural drains and canals; there is a canal on the property. Detailed biological surveys are required to identify species and occupied habitats.

r. Loss of agricultural land. Agriculture has been and is the single most important economic activity of Imperial County. The County’s General Plan calls for the primary use of any parcel designated “Agriculture” on the Land Use Plan to be maintained for agricultural production. Further, where a development permit is sought adjacent to agricultural land use, as here, the agricultural operations are required to be protected with an appropriate buffer zones, not merged out of existence.

s. Failure to comply with the Municipal Code and General Plan goals and policies that were adopted to mitigate environmental impacts. These include the following:

- Conservation/Open Space Element: Objective 1.4: Ensure the conservation and management of the County's natural and cultural resources.
- Conservation/Open Space Element: Objective 2.4: Use the CEQA and NEPA process to identify, conserve and restore sensitive vegetation and wildlife resources.
- Conservation Element/Open Space: Objective 6.1: Ensure the use and protection of all the rivers, waterways, and groundwater sources in the County for use by future generations.
- Conservation/Open Space Element: Objective 6.2: Ensure proper drainage and provide accommodation for storm runoff from urban and other developed areas in manners compatible with requirements to provide necessary agricultural drainage.
- Conservation/Open Space Element: Objective 6.7: Prohibit the inappropriate siting of solid or hazardous waste facilities next to water bodies or over sources of potable groundwater or recharge basins.
- Conservation/Open Space Element: Objective 7.1: Ensure that all project and facilities comply with current Federal, State, and local requirements for attainment of air quality objectives.
- Agricultural Element: Objective 1.8: Allow conversion of agricultural land to non-agricultural uses including renewable energy only where a clear and immediate need can be demonstrated, based on economic benefits, population projections and lack of other available land (including land within incorporated cities) for such nonagricultural uses.
- Agricultural Element: Objective 3.1: The primary use of any parcel designated "Agriculture" on the Land Use Plan shall be agricultural production.
- Agricultural Element: Objective 3.6: Where a development permit is sought adjacent to agricultural land use, protect agricultural operations by requiring appropriate buffer zones between agricultural land and new developments, and then keep these zones aesthetically pleasing and free of pests by cleaning them of all garbage and noxious vegetation. Vegetation for the purpose of dust control shall be planted and maintained in an attractive manner. The buffer shall occur on the parcel for which the development permit is sought and shall favor protection of the maximum amount of farmland.
- Agricultural Element: Objective 4.1: The County must favor efforts to ensure adequate irrigation water for agricultural areas.
- Circulation Element: Objective 1.2: Require a traffic analysis for any new development which may have a significant impact on County roads.
- Circulation Element: Objective 1.3: Ensure safe and coordinated traffic patterns, contiguous growth, and promote a planned and consistent development around city/township areas. Require that coordination with other jurisdictions, including the cities and CALTRANS results in a coordinated system that is consistent in classification, RoW and improvement standards. This is intended to provide

“throughways” that allow for the flow of traffic at LOS “C” or better throughout the system, both in cities as well as the County.

- Circulation Element: Objective 1.11: Improve County circulation system roadways in concert with land development to ensure sufficient levels of service.
- Circulation Element: Objective 1.13: Work with adjacent jurisdictions and transportation agencies to identify necessary improvements to the regional roadway system to ensure adequate interregional and intraregional access throughout the County.
- Circulation Element: Objective 2.4: Develop and improve aviation facilities. Reduce aviation-related hazards, including hazards to aircraft and hazards posed by aircraft.
- Circulation Element: Objective 2.5: Ensure consistency of the General Plan with the provisions of the Airport Land Use Plan.
- Circulation Element: Objective 3.8: Attempt to reduce motor vehicle air pollution. Require all major projects to perform an air quality analysis to determine the amount of pollution, as well as the alternative reduction options.
- Circulation Element: Objective 5.3: The County shall cooperate with the adjacent communities and agencies such as Imperial to provide the maximum compatibility of adopted circulation elements and regional facility plans.
- Noise Element: Objective 1.1: Adopt noise standards which protect sensitive noise receptors from adverse impact.
- Noise Element: Objective 1.3: Control noise levels at the source where feasible.
- Noise Element: Objective 1.5: Identify sensitive receptors with noise environments which are less than acceptable, and evaluate measures to improve the noise environment.
- Noise Element: Objective 2.3: Work with project proponents to utilize site planning, architectural design, construction, and noise barriers to reduce noise impacts as projects are proposed.
- Water Element: Objective 1.2: Cooperation between the Cities and County for the need to maintain, upgrade, and expand domestic water and sewage treatment facilities of the communities within the County, the need for the implementation of appropriate development fees, and the raising of service fees to off-set limited public financial resources.
- Water Element: Objective 1.3: The efficient regulation of land uses that economizes on water consumption, enhances equivalent dwelling unit demand for domestic water resources, and that makes available affordable resources for continued urban growth and development.

(See also No. 7 above.)

Accordingly, the County is obligated to prepare an EIR to address the significant environmental effects of the “whole” Data Center Project and consider alternatives (such as a different and safer location) and mitigation measures to reduce these significant effects.

**8. The County Airport Land Use Commission is Required to Review the Project for Consistency.**

The Data Center Project is located within an area covered by an Airport Land Use Compatibility Plan (“ALUCP”) , Zone C. (ICMC, § 90601.08.) The ALUCP seeks to protect the public from the adverse effects of airport noise, ensure people and facilities are not concentrated in areas susceptible to aircraft accidents, and ensure no structures or activities encroach upon or adversely affect the use of navigable airspace. Under the ALUCP the County Airport Land Use Commission is required to review building permit applications for projects having a valuation greater than \$500,000.00 to determine whether the project is compatible, not compatible or compatible with restrictions with the criteria identified in the ALUCP. All projects shall be referred to the Commission at the earliest reasonable point in time so that the Commission’s review can be duly considered by the local jurisdiction prior to formalizing its action. It is believed that this Data Center Project has a valuation in excess of \$500,000.00 and therefore, County Airport Land Use Commission review and consistency finding is required. This review should occur before the Planning Commission exercises its discretion on this lot merger application.

According to the ALUCP for the Imperial County Airport, the uses that are acceptable in Zone C are agricultural uses, warehouses, truck terminals and low-intensity manufacturing. Data centers, BESS, water tanks and cooling towers are not land uses that were analyzed in the ALUCP. Power lines and electrical substations are identified as uses which could be potentially compatible with restrictions. Chapter 2 provides some guidance on determining compatibility. Specifically, the ALUCP states that land uses which may produce hazards to aircraft in flight shall not be permitted within any airport’s planning area including: (1) glare or distracting lights which could be mistaken for airport lights; (2) sources of dust, steam, or smoke that may impair pilot visibility; (3) sources of electrical interference with aircraft communications or navigation; and (4) any use which may attract large flocks of birds. Data centers implicate three of these four criteria. Data centers produce significant light and glare due to their 24/7 operations and the intense, constant illumination for operations, security and maintenance. This can lead to light pollution, skyglow especially in rural areas, and potential glare for workers and nearby residents. Cooling systems can produce significant amounts of water vapor/steam. Data centers can be significant sources of electrical interference known as electromagnetic interference (“EMI”) or "electrical noise" which is a natural byproduct of their high power consumption and the operation of numerous electronic devices.

**Conclusion**

The City is not opposed to responsible development of data centers in Imperial County that includes a robust public process. However, this particular Project violates numerous zoning and subdivision laws and should not be approved.

The Municipal Code, section 90808.03 requires the Planning Commission<sup>4</sup> make these specific findings:

- A. All the lots or parcels are contiguous.
- B. Whether the lot merger conforms to State law and County Ordinance.
- C. The lot merger is between lots or parcels that were created by a parcel or tract map consistent with the Subdivision Map Act and County Ordinance in effect at the time they were created.
- D. The lots or parcels are not separated or affected by any easement, right-of-way, road, alley or canal (including public utility easements).
- E. The parcel as merged will not be deprived access as a result of the merger.
- F. Access to the adjoining parcels will not be restricted by the merger.
- G. The parcel as merged will not conflict with the location of any existing structures on the property.
- H. No new lot or lots are created through the merger.

As explained fully in this letter, the Planning Commission cannot make these findings. The parcels are not contiguous and under common ownership at the time of the merger. A road separates the parcels, and the property has multiple zoning designations. The Data Center is not a permitted use and is not consistent with the General Plan. The lot merger is not exempt under CEQA as a minor alteration of land.

Please include this letter, all of the attachments and the information from the referenced websites in the administrative record for this Project.

Sincerely,



Alene Taber  
Attorneys for City of Imperial

cc: Dennis Morita, City Manager (dmorita@imperial.ca.gov)  
Katherine Turner, Esq., City Attorney (kturner@cityofimperial.org)  
Jim Minnick, Planning & Development Services Director (jimminnick@co.imperial.ca.us)  
Gerardo Quero, Planner II (Gerardoquero@co.imperial.ca.us)  
Geoffrey Holbrook, Esq., County Counsel (countycounsel@co.imperial.ca.us)  
Nathan George, Esq., Remy Moose Manley, LLP (NGeorge@rmmenvirolaw.com)

---

<sup>4</sup> The Planning Commission is required to make these findings as it is the first level of government to act on the lot merger application.

# EXHIBIT 1

PC ORIGINAL PKG

# LOT MERGER

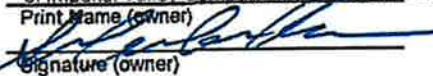
I.C. PLANNING & DEVELOPMENT SERVICES DEPT  
801 Main Street, El Centro, CA 92243 (442) 265-1736

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME Imperial Valley Computer Manufacturing, LLC	EMAIL ADDRESS Sebastian Rucci, Managing Member	
2. MAILING ADDRESS 16400 Pacific Coast Highway, Suite 212	ZIP CODE 92649	PHONE NUMBER (562)901-1099
3. ENGINEER'S NAME Maurico Lam	CAL. LICENSE NO. LS 8440	EMAIL ADDRESS mauriciolam@lcec-inc.com
4. MAILING ADDRESS 1065 State Street, El Centro, CA 92243	ZIP CODE 92243	PHONE NUMBER (760) 353-8110
5. PROPERTY "A" (site) ADDRESS 291 West Aten Road	LOCATION Intersection of Clark & Aten Road, Imperial County	
6. PROPERTY "A" ASSESSOR'S PARCEL NO.(s) 044-220-042	SIZE OF PROPERTY (in acres or square foot) 3.94 AC	
7. EXISTING USE Vacant Industrial Property	CURRENT ZONE M2-U	
8. PROPERTY "A" LEGAL DESCRIPTION (attach separate sheet if necessary) Please see attached legal description		
9. PROPERTY "B" (site) ADDRESS Please see additional Lot Merger Applications Provided	LOCATION Intersection of Clark & Aten Road, Imperial County	
10. PROPERTY "B" ASSESSOR'S PARCEL NO.(s) Please see additional Lot Merger Applications Provided	SIZE OF PROPERTY (in acres or square foot)	
11. EXISTING USE Please see additional Lot Merger Applications	CURRENT ZONE	
12. PROPERTY "B" LEGAL DESCRIPTION (attach separate sheet if necessary) Please see additional page total of 5 merged parcel.		
13. EXPLAIN PURPOSE/REASON FOR LOT MERGER To accomodate land to construct a Data Center and accessory uses such as a substation, battery back-up, and generater back up. Please see site plan for reference.		
14. PROPOSED MERGED PARCEL SIZE Total 5 parcels merged 71.14 AC	PROPOSED USE Please see additional Lot Merger Applications	

**PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)**

15. DESCRIBE PROPOSED SEWER SYSTEM(s)	On site treatment
16. DESCRIBE PROPOSED WATER SYSTEM	IID - North Gate Canal, Gate NDA 44, onsite treatment, reclaimed water
17. DESCRIBE PROPOSED ACCESS TO MERGED PARCEL	Existing Access points Aten Road and Labruhenne Road
18. IS THIS PARCEL PLANNED TO BE ANNEXED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, TO WHAT CITY or DISTRICT?

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT.  
Sebastian Rucci, Managing Member  
of Imperial Valley Computer Manufacturing LLC. 10.3.25  
Print Name (owner) \_\_\_\_\_ Date \_\_\_\_\_  
  
Signature (owner) \_\_\_\_\_  
Print Name (Agent) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (Agent) \_\_\_\_\_  
An owners notarized affidavit is required if application is signed by Agent.

- REQUIRED SUPPORT DOCUMENTS**
- A. SITE PLAN
  - B. PROPOSED LEGAL DESCRIPTION
  - C. PRELIMINARY TITLE REPORT (6 months or newer)
  - D. FEE \_\_\_\_\_
  - E. OTHER \_\_\_\_\_

APPLICATION RECEIVED BY: _____	DATE _____	REVIEW / APPROVAL BY OTHER DEPT'S required.
APPLICATION DEEMED COMPLETE BY: _____	DATE _____	<input type="checkbox"/> P. W.
APPLICATION REJECTED BY: _____	DATE _____	<input type="checkbox"/> E. H. S.
TENTATIVE HEARING BY: _____	DATE _____	<input type="checkbox"/> A. P. C. D.
FINAL ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	DATE _____	<input type="checkbox"/> O. E. S.
		<input type="checkbox"/> _____
		<input type="checkbox"/> _____

**MERG#**  
20191

# LOT MERGER

I.C. PLANNING & DEVELOPMENT SERVICES DEPT  
801 Main Street, El Centro, CA 92243 (442) 265-1736

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME Imperial Valley Computer Manufacturing, LLC	EMAIL ADDRESS sebastian@ruccilaw.com/ tom@dubosedesigngroup.com	
2. MAILING ADDRESS 16400 Pacific Coast Highway, Suite 212	ZIP CODE 92649	PHONE NUMBER (562) 901-0199
3. ENGINEER'S NAME Maurico Lam	CAL. LICENSE NO. LS 8440	EMAIL ADDRESS mauriciolam@lcec-inc.com
4. MAILING ADDRESS 1065 West State Street	ZIP CODE 92243	PHONE NUMBER (760) 353-8110
5. PROPERTY "A" (site) ADDRESS N/A See Legal Description	LOCATION Intersection of Clark & Aten Road, Imperial County	
6. PROPERTY "A" ASSESSOR'S PARCEL NO.(s) 044-220-044	SIZE OF PROPERTY (in acres or square foot) 9.77	
7. EXISTING USE Vacant Industrial Property	CURRENT ZONE M2-U	
8. PROPERTY "A" LEGAL DESCRIPTION (attach separate sheet if necessary) See attached		
9. PROPERTY "B" (site) ADDRESS N/A See Legal Description	LOCATION Intersection of Clark & Aten Road, Imperial County	
10. PROPERTY "B" ASSESSOR'S PARCEL NO.(s) 044-220-045	SIZE OF PROPERTY (in acres or square foot) 10.01	
11. EXISTING USE Vacant Industrial Property	CURRENT ZONE M2-U	
12. PROPERTY "B" LEGAL DESCRIPTION (attach separate sheet if necessary) See attached		
13. EXPLAIN PURPOSE/REASON FOR LOT MERGER to accomodate land to construct a data center and accessory uses such as a substation, battery back-up, and generator back up. Please see site plan for reference.		
14. PROPOSED MERGED PARCEL SIZE Total 5 parcels merged 71.14 AC	PROPOSED USE Data Center and Complimentary Uses	

**PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)**

15. DESCRIBE PROPOSED SEWER SYSTEM(s)	On site treatment
16. DESCRIBE PROPOSED WATER SYSTEM	<del>IID North Gate Canal, Gate NDA 44, onsite treatment &amp; reclaimed water</del> <i>SEE PROJECT DESCRIPTION 20</i>
17. DESCRIBE PROPOSED ACCESS TO MERGED PARCEL	Existing Access points Aten Road and <del>Labruche Road</del> <i>Clark Rd</i>
18. IS THIS PARCEL PLANNED TO BE ANNEXED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	IF YES, TO WHAT CITY or DISTRICT?

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT

Sebastian Rucci, Managing Member 10.3.25

Print Name (owner) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (owner) \_\_\_\_\_

Print Name (Agent) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (Agent) \_\_\_\_\_

An owners notarized affidavit is required if application is signed by Agent.

**REQUIRED SUPPORT DOCUMENTS**

- A. SITE PLAN
- B. PROPOSED LEGAL DESCRIPTION
- C. PRELIMINARY TITLE REPORT (6 months or newer)
- D. FEE \_\_\_\_\_
- E. OTHER \_\_\_\_\_

APPLICATION RECEIVED BY: \_\_\_\_\_ DATE \_\_\_\_\_

APPLICATION DEEMED COMPLETE BY: \_\_\_\_\_ DATE \_\_\_\_\_

APPLICATION REJECTED BY: \_\_\_\_\_ DATE \_\_\_\_\_

TENTATIVE HEARING BY: \_\_\_\_\_ DATE \_\_\_\_\_

FINAL ACTION:  APPROVED  DENIED

REVIEW / APPROVAL BY OTHER DEPT'S required.

P. W.

E. H. S.

A. P. C. D.

O. E. S.

\_\_\_\_\_

\_\_\_\_\_

**MERG#**  
00191

# LOT MERGER

I.C. PLANNING & DEVELOPMENT SERVICES DEPT  
801 Main Street, El Centro, CA 92243 (442) 265-1736

- APPLICANT MUST COMPLETE ALL NUMBERED (black) SPACES - Please type or print -

1. PROPERTY OWNER'S NAME Imperial Valley Computer Manufacturing, LLC	EMAIL ADDRESS sebastian@ruccilaw.com/ tom@dubosedesigngroup.com	
2. MAILING ADDRESS 16400 Pacific Coast Highway, Suite 212	ZIP CODE 92649	PHONE NUMBER (562) 901-0199
3. ENGINEER'S NAME Maurico Lam	CAL LICENSE NO. LS 8440	EMAIL ADDRESS mauriciolam@lcec-inc.com
4. MAILING ADDRESS 1065 West State Street	ZIP CODE 92243	PHONE NUMBER (760) 353-8110
5. PROPERTY "A" (site) ADDRESS 2304 Clark Road, Imperial CA - 92251	LOCATION Intersection of Clark & Aten Road, Imperial County	
6. PROPERTY "A" ASSESSOR'S PARCEL NO.(s) 044-220-007	SIZE OF PROPERTY (in acres or square foot) 5 AC	
7. EXISTING USE Currently designated A-2 U, not in agricultural production	CURRENT ZONE A-2 U	
8. PROPERTY "A" LEGAL DESCRIPTION (attach separate sheet if necessary) Please see attached.		
9. PROPERTY "B" (site) ADDRESS N/A- See Legal Description	LOCATION Intersection of Clark & Aten Road, Imperial County	
10. PROPERTY "B" ASSESSOR'S PARCEL NO.(s) 044-222-046 <i>922-046 044-220-044</i>	SIZE OF PROPERTY (in acres or square foot) 42.3 AC	
11. EXISTING USE Vacant Industrial Property	CURRENT ZONE M-1 N U	
12. PROPERTY "B" LEGAL DESCRIPTION (attach separate sheet if necessary) See attached		
13. EXPLAIN PURPOSE/REASON FOR LOT MERGER To accomodate land to construct a Data Center and accessory uses such as a substation, battery back-up, and generater back up. Please see site plan for reference.		
14. PROPOSED MERGED PARCEL SIZE Total 5 parcels merged 71.14 AC	PROPOSED USE Data Center and Complimentary Uses	

**PLEASE PROVIDE CLEAR & CONCISE INFORMATION (ATTACH SEPARATE SHEET IF NEEDED)**

15. DESCRIBE PROPOSED SEWER SYSTEM(s)	On site treatment <i>1 SEE PROJECT DESCRIPTION</i>
16. DESCRIBE PROPOSED WATER SYSTEM	<del>IID North Gate Canal, Gate NDA 44, on-site treatment &amp; reclaimed water</del>
17. DESCRIBE PROPOSED ACCESS TO MERGED PARCEL	Proposed access through existing Clark Road & existling access Aten & Labruchette Road <i>Clark Rd</i>
18. IS THIS PARCEL PLANNED TO BE ANNEXED?	IF YES, TO WHAT CITY or DISTRICT?
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

I / WE THE LEGAL OWNER (S) OF THE ABOVE PROPERTY CERTIFY THAT THE INFORMATION SHOWN OR STATED HEREIN IS TRUE AND CORRECT  
Sebastian Rucci, Managing Member of Imperial Valley Computer Manufacturing LLC, 10.3.25

Print Name (owner) \_\_\_\_\_ Date \_\_\_\_\_  
*Sebastian Rucci*

Print Name (Agent) \_\_\_\_\_ Date \_\_\_\_\_  
Signature (Agent) \_\_\_\_\_  
An owners notarized affidavit is required if application is signed by Agent.

**REQUIRED SUPPORT DOCUMENTS**

- A. SITE PLAN
- B. PROPOSED LEGAL DESCRIPTION
- C. PRELIMINARY TITLE REPORT (6 months or newer)
- D. FEE \_\_\_\_\_
- E. OTHER \_\_\_\_\_

APPLICATION RECEIVED BY: _____	DATE _____	REVIEW / APPROVAL BY OTHER DEPT'S required.
APPLICATION DEEMED COMPLETE BY: _____	DATE _____	<input type="checkbox"/> P. W.
APPLICATION REJECTED BY: _____	DATE _____	<input type="checkbox"/> E. H. S.
TENTATIVE HEARING BY: _____	DATE _____	<input type="checkbox"/> A. P. C. D.
FINAL ACTION: <input type="checkbox"/> APPROVED <input type="checkbox"/> DENIED	DATE _____	<input type="checkbox"/> O. E. S.
		<input type="checkbox"/> _____

**MERG#**  
*00191*

# EXHIBIT 2

PC ORIGINAL PKG

[West's Annotated California Codes](#)  
[Government Code \(Refs & Annos\)](#)  
[Title 7. Planning and Land Use \(Refs & Annos\)](#)  
[Division 2. Subdivisions \(Refs & Annos\)](#)  
[Chapter 2. Maps \(Refs & Annos\)](#)  
[Article 1. General Provisions \(Refs & Annos\)](#)

West's Ann.Cal.Gov.Code § 66430

## § 66430. Consent to filing

[Currentness](#)

No final map or parcel map required by this chapter or local ordinance which creates a subdivision shall be filed with the local agency without the written consent of all parties having any record title interest in the real property proposed to be subdivided, except as otherwise provided in this division.

### Credits

(Added by Stats.1974, c. 1536, p. 3468, § 4, operative March 1, 1975.)

### [Notes of Decisions \(5\)](#)

West's Ann. Cal. Gov. Code § 66430, CA GOVT § 66430

Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

End of Document

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# EXHIBIT 3

PC ORIGINAL PKG

[West's Annotated California Codes](#)

[Government Code \(Refs & Annos\)](#)

[Title 7. Planning and Land Use \(Refs & Annos\)](#)

[Division 2. Subdivisions \(Refs & Annos\)](#)

[Chapter 7. Enforcement and Judicial Review \(Refs & Annos\)](#)

[Article 1. Prohibition and Penalty \(Refs & Annos\)](#)

West's Ann.Cal.Gov.Code § 66499.31

**§ 66499.31. Violations; punishment**

[Currentness](#)

Each violation of this division by a person who is the subdivider or an owner of record, at the time of the violation, of property involved in the violation shall be punishable by imprisonment in the county jail not exceeding one year or in the state prison, by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment. Every other violation of this division is a misdemeanor.

**Credits**

(Added by [Stats.1987, c. 799, § 3.](#))

[Notes of Decisions \(1\)](#)

West's Ann. Cal. Gov. Code § 66499.31, CA GOVT § 66499.31

Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

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**End of Document**

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# EXHIBIT 4

PC ORIGINAL PKG

[West's Annotated California Codes](#)  
[Government Code \(Refs & Annos\)](#)  
[Title 7. Planning and Land Use \(Refs & Annos\)](#)  
[Division 2. Subdivisions \(Refs & Annos\)](#)  
[Chapter 6. Reversions and Exclusions \(Refs & Annos\)](#)  
[Article 1. Reversion to Acreage \(Refs & Annos\)](#)

West's Ann.Cal.Gov.Code § 66499.20.3  
Formerly cited as CA GOVT § 66499.20 3/4

### § 66499.20.3. Merger of contiguous parcels under common ownership; ordinance

Effective: January 1, 2013

[Currentness](#)

A city or county may, by ordinance, authorize the merger of contiguous parcels under common ownership without reverting to acreage. The ordinance shall require the recordation of an instrument evidencing the merger.

#### Credits

(Formerly § 66499.20 ¾, added by Stats.1982, c. 87, § 27, eff. March 1, 1982. Renumbered § 66499.20.3 and amended by Stats.2012, c. 162 (S.B.1171), § 78.)

[Notes of Decisions \(1\)](#)

West's Ann. Cal. Gov. Code § 66499.20.3, CA GOVT § 66499.20.3  
Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

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# EXHIBIT 5

PC ORIGINAL PKG

## 90501.01 - Single base zoning area.

Every lot or parcel of land or portion thereof within the unincorporated areas of the county of Imperial shall be classified in only one of the base zoning areas established in this section.

## EXCEPTION:

Parcels greater than forty (40) acres in net area may be divided by zoning district boundaries (A-2/A-3 Traffic corridor). Parcels less than forty (40) acres net and currently divided by a zoning boundary shall have the larger of the current designation apply to the entire parcel. Where a zoning map shows two zones on the same parcel the parcel shall have the larger of the two zones applicable to the entire parcel regardless of the map depiction. Unless identified by a community/urban or specific plan area.

(Ord. No. 1565, §§ 3, 4, 12-15-20)

PC ORIGINAL PKG

# EXHIBIT 6

PC ORIGINAL PKG

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 7. Planning and Land Use (Refs & Annos)  
Division 1. Planning and Zoning (Refs & Annos)  
Chapter 4. Zoning Regulations (Refs & Annos)  
Article 2. Adoption of Regulations (Refs & Annos)

West's Ann.Cal.Gov.Code § 65856

§ 65856. Public hearing; exceptions

Currentness

(a) Upon receipt of the recommendation of the planning commission, the legislative body shall hold a public hearing. However, if the matter under consideration is an amendment to a zoning ordinance to change property from one zone to another, and the planning commission has recommended against the adoption of such amendment, the legislative body shall not be required to take any further action on the amendment unless otherwise provided by ordinance or unless an interested party requests a hearing by filing a written request with the clerk of the legislative body within five days after the planning commission files its recommendations with the legislative body.

(b) Notice of the hearing shall be given pursuant to [Section 65090](#).

**Credits**

(Added by Stats.1965, c. 1880, p. 4348, § 6. Amended by Stats.1984, c. 1009, § 23.)

[Notes of Decisions \(5\)](#)

West's Ann. Cal. Gov. Code § 65856, CA GOVT § 65856  
Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

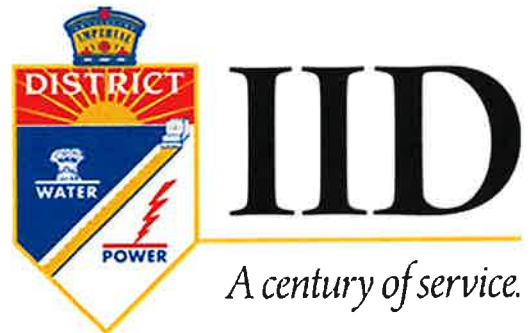
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# EXHIBIT 7

PC ORIGINAL PKG



IMPERIAL VALLEY COMPUTER  
MANUFACTURING LLC, (DATA CENTER #1)  
FEASIBILITY STUDY

TRANSMISSION PLANNING



## EXECUTIVE SUMMARY

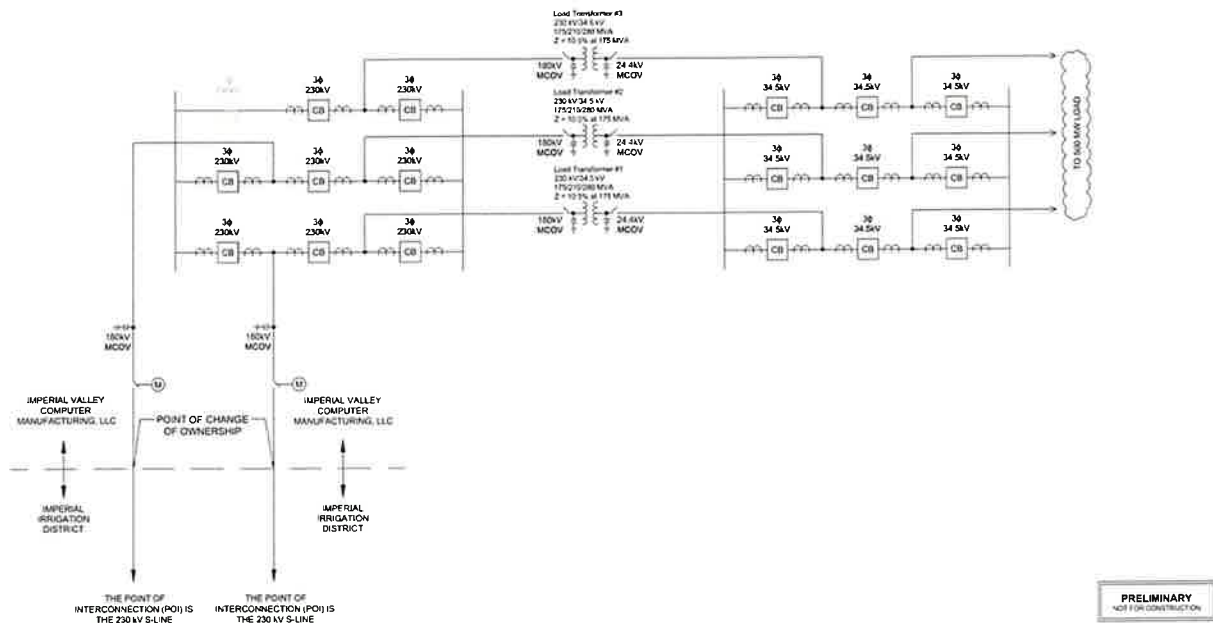
The Imperial Irrigation District (IID) received a request from Imperial Valley Computer Manufacturing LLC (Customer) for the interconnection of their Imperial Data Center Campus (Project) in the Imperial Valley. The facility's proposed Point of Interconnection (POI) to the IID System is at the 230kV 'S' line between IID's El Centro switching station (ECSS) and SDG&E's Imperial Valley substation. As part of this feasibility study, IID evaluated the interconnection of different load scenarios at 150 MW, 200 MW, 250 MW, and 500 MW to assess potential system impacts and infrastructure requirements. Commercial Operation Date (COD) is planned to be in service by January 2027.

IID's Transmission Planning Department performed a high-level feasibility study to evaluate the potential impact of integrating this Project into the IID transmission system. The study included power flow (steady-state) analysis to identify any thermal violations caused solely by the addition of this load.

**Note:** IID assumed that the majority of the power required to serve this load would be imported. IID currently does not have the capability to reliably support a large-scale load requiring continuous 24-hour service. As such, this report does not represent a commitment by IID to serve the requested load.

### PROJECT DESCRIPTION

The proposed Project consists of a large-scale data center campus, upwards of 500MW, that is to be placed in a land parcel near the 230kV 'S' line between IID's El Centro switching station and SDG&E's Imperial Valley substation, which will serve as the POI for the Project. The Project had an assumed power factor of 0.95. The Figures 1, 2, & 3 below indicate the single line diagram, geographical location, and site plan of the Project.



**FIGURE 1: PROJECT SINGLE LINE DIAGRAM**



**FIGURE 2: PROJECT GEOGRAPHICAL LOCATION**





**STUDY DATA ASSUMPTIONS AND METHODOLOGY**

Various base cases were developed for this assessment with the intent to cover all critical operating scenarios, and to document all potential impacts that could be caused by the implementation of the Project. No queue generation was included unless the project has an executed Generator Interconnection Agreement (GIA), a Power Purchase Agreement (PPA), or a Tolling Agreement with the IID and the project is in accordance with section 4.0 of IID’s Planning Standards. Distribution projects were included with either an executed Joint Power Agreement (JPA) or system impact studies were finalized. The base cases were developed to represent the Heavy Summer operating conditions and the early Spring operating conditions. For the early Spring assessments, an early Spring time frame of 0600-0800 was analyzed.

Table 1 below lists the WECC approved base cases that were used to model the IID system for steady-state analysis:

WECC Seed Case	PSLF Base Case Name	Description
<b>Heavy Summer Peak Scenarios</b>		
25HS4a.sav	27HS_IVCM_Peak_pre.sav	2027 Heavy Summer without Project (pre-case)
	27HS_IVCM_150MW_Peak.sav	2027 Heavy Summer with Project (150MW)
	27HS_IVCM_200MW_Peak.sav	2027 Heavy Summer with Project (200MW)
	27HS_IVCM_250MW_Peak.sav	2027 Heavy Summer with Project (250MW)
	27HS_IVCM_500MW_Peak.sav	2027 Heavy Summer with Project (500MW)
<b>Heavy Summer Solar Reduced Scenarios</b>		
25HS4a.sav	27HS_IVCM_Solar_Reduced_pre.sav	2027 Heavy Summer without Project (pre-case); 20% solar
	27HS_IVCM_150MW_Solar_Reduced.sav	2027 Heavy Summer with Project (150MW); 20% solar
	27HS_IVCM_200MW_Solar_Reduced.sav	2027 Heavy Summer with Project (200MW); 20% solar
	27HS_IVCM_250MW_Solar_Reduced.sav	2027 Heavy Summer with Project (250MW); 20% solar
	27HS_IVCM_500MW_Solar_Reduced.sav	2027 Heavy Summer with Project (500MW); 20% solar
<b>Light Spring Early Morning Solar Reduced Scenarios</b>		
26LSP1Sa.sav	27LSP_IVCM_Solar_Reduced_pre.sav	2027 Light Spring without Project (pre-case); 40% solar
	27LSP_IVCM_150MW_Solar_Reduced.sav	2027 Light Spring with Project (150MW); 40% solar
	27LSP_IVCM_200MW_Solar_Reduced.sav	2027 Light Spring with Project (200MW); 40% solar
	27LSP_IVCM_250MW_Solar_Reduced.sav	2027 Light Spring with Project (250MW); 40% solar
	27LSP_IVCM_500MW_Solar_Reduced.sav	2027 Light Spring with Project (500MW); 40% solar

**TABLE 2: SUMMARY OF BASE CASES ANALYZED**

The GE PSLF version 23.0.8.2 software was used to analyze the pre and post Project study cases, with respect to the North American Electric Reliability Corporation (NERC) revised NERC TPL-001-5.1 standard, reflecting the use of P0-P7 outage categories and the corresponding WECC system performance criteria. GE PSLF was also used to check for system performance criteria violations in each of the post-Project cases when comparing to the corresponding pre-Project case. GE ProvisoHD was utilized to accumulate the power flow results in order to facilitate the comparison between pre and post Project cases. The base cases developed are designed to reflect the IID electrical system via loads, resources, topology and conditions expected when the project starts operation. While it is impossible to study all the IID transmission system flows and generation levels during all seasons, these pre-Project base cases represent extreme generation and transmission flows that will potentially expose any transmission constraints at the POI. However, the IID cannot guarantee that the Project can operate at its maximum rating year-round without impacting the transmission system, during times and seasons not studied.



### **Steady State Contingency Analysis:**

The assessment considered all of IID's credible single and multiple contingencies, as well as the most severe multiple contingencies within the IID system. External contingencies that are known to cause the most severe impacts to the IID transmission system were analyzed also. The scope of the steady-state analysis consisted of thermal, voltage magnitude and angle difference violations. The full suite of NERC standard TPL-001-5.1 contingency sets, P1-P7, was analyzed.

## **STUDY RESULTS AND CONCLUSION**

The Imperial Irrigation District (IID) conducted a high-level feasibility study for the proposed Project at various loading levels, with the POI located on the 230kV 'S' Line between IID's El Centro substation and SDG&E's Imperial Valley substation. The study evaluated multiple loading and generation scenarios for the Project's target year, using Heavy Summer and Light Spring cases. Below are the findings and results for each loading scenario:

### **150 MW load**

- Results showed there were no thermal violations in IID's transmission system under P0-P7 contingencies. Project did not cause any buses to experience voltage exceedances or deviations.

### **200 MW load**

- Results showed there were no thermal violations in IID's transmission system under P0-P7 contingencies. Project did not cause any buses to experience voltage exceedances or deviations.

### **250 MW load**

- Results showed there were no thermal violations in IID's transmission system under P0-P7 contingencies. Project did not cause any buses to experience voltage exceedances or deviations.

### **500 MW load**

- Thermal and voltage violations were found under the following outage:
  - P1: Loss of 230kV 'S' Line between 230kV Imperial Valley Substation and 230kV IVCM Substation.
- The outage mentioned above shows the Project poses a significant risk of voltage collapse due to its heavy reliability on imported power and the limited transmission capacity of IID's system to support such demand. In order to avoid this risk and for the project to be feasible, a new independent 230kV circuit from Imperial Valley Substation to IVCM Substation will be needed.

Please note that this is based on high-level assumptions and does not represent the final results of the study, as conceptual models and designs were used to verify that the proposed maximum output at the point of interconnection is feasible.

# EXHIBIT 8

PC ORIGINAL PKG



VERSION: DRAFT  
JULY 25, 2025



# IMPERIAL VALLEY COMPUTER MANUFACTURING LLC, (DATA CENTER #1) SYSTEM IMPACT STUDY

TRANSMISSION PLANNING

7/25/2025

IMPERIAL VALLEY COMPUTER MANUFACTURING LLC, (DATA CENTER #1)  
SYSTEM IMPACT STUDY

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**TABLE OF CONTENTS**

1. Executive Summary..... 4

2. Project Description..... 5

3. Study Data Assumptions and Methodology ..... 7

    3.1 Base Cases and Assumptions ..... 7

    3.2 Methodology..... 8

        3.2.1 Steady State Contingency Analysis..... 8

        3.2.2 Transient Stability Analysis..... 8

        3.2.3 Post-Transient Analysis (Reactive Margin) ..... 10

        3.3.1 Power Flow Modeling ..... 10

        3.3.2 Dynamic Models ..... 11

        3.3.3 Remedial Action Scheme Modeling ..... 11

    3.4 System Upgrades/Mitigations..... 12

4. Study Criteria..... 12

    4.1 NERC Reliability Standards..... 12

    4.2 WECC Reliability Criteria ..... 12

    4.3 Steady State Study Criteria ..... 12

        4.3.1 Normal Overloads ..... 13

        4.3.2 Emergency Overloads ..... 13

        4.3.3 Voltage Criteria..... 14

    4.3 Transient Stability Data ..... 14

        4.4.1 Bus Voltage..... 14

        4.4.2 Bus Frequency..... 16

    4.5 Reactive Margin Criteria ..... 16

5. Study Results..... 16

    5.1 Power Flow Analysis:..... 16

        5.1.1 (2027) Heavy Summer Peak..... 17

        5.1.2 (2027) Heavy Summer Peak Solar Reduced 20% ..... 17

        5.1.3 (2027) Light Spring Solar Reduced 40% ..... 17

    5.2 Transient Stability Analysis ..... 17

        5.2.1 (2027) Heavy Summer Transient Stability Results..... 17

        5.2.2 (2027) Heavy Summer Solar Reduced Transient Stability Results..... 17

        5.2.3 (2027) Light Spring Solar Reduced Transient Stability Results ..... 17

    5.3 Post Transient Stability and Reactive Power Margin: Heavy Summer ..... 17

7/25/2025 IMPERIAL VALLEY COMPUTER MANUFACTURING LLC, (DATA CENTER #1) 2

SYSTEM IMPACT STUDY



6. Conclusion..... 18



## 1. EXECUTIVE SUMMARY

The Imperial Irrigation District (IID) received a request from Imperial Valley Computer Manufacturing LLC (Customer) for the interconnection of their Imperial Data Center Campus (Project) in the Imperial Valley. The facility's proposed Point of Interconnection (POI) to the IID System is at the 230kV 'S' line between IID's El Centro switching station (ECSS) and San Diego Gas & Electric's (SDG&E's) Imperial Valley substation. As part of this study, IID evaluated the interconnection of 250 MW of load to assess potential system impacts and infrastructure requirements. Commercial Operation Date (COD) is planned to be in service by the year 2027.

IID's Transmission Planning Department performed a System Impact Study (SIS) to evaluate the potential impact of integrating this Project into the IID transmission system. The study included power flow (steady-state), transient stability, and post-transient stability analysis. The scope of the analyses is to identify the transmission system impacts caused solely by the addition of the project and reinforcements necessary to mitigate the adverse impact of the Project under different system operating conditions. The following scenarios were studied accordingly:

- 2027 Heavy Summer
- 2027 Heavy Summer (Solar reduced)
- 2027 Light Spring (Early morning solar reduced)

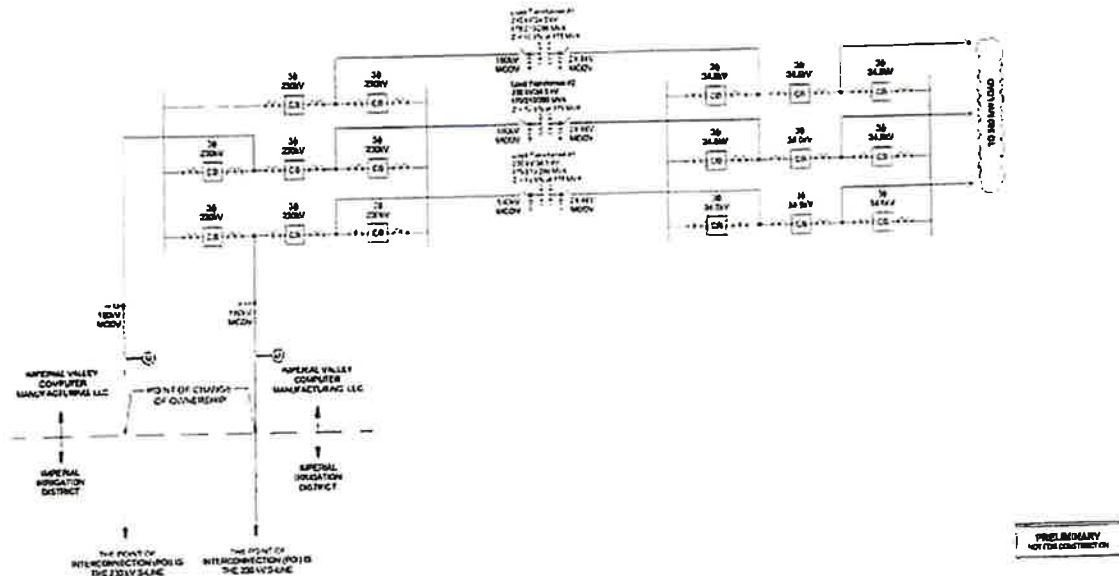
Each scenario includes two versions, a pre-case and a post-case including the project load. All cases include all generation with an executed Generation Interconnection Agreement (GIA), planned IID transmission upgrades, as well as anticipated distribution projects as identified in the IID 2024-33 Capital Investment plan. The project was modeled as a new load with a value of 250 MW for the year 2027. The analysis tested the impact of the load addition on the reliability of IID's electrical system.

**Note:** IID Transmission Planning assumed that the majority of the power required to serve this load would be imported for the purposes of this study. IID currently does not have the capability to reliably support a large-scale load requiring continuous 24-hour service with existing resources. As such, this report does not represent a commitment by IID to serve the requested load.



**2. PROJECT DESCRIPTION**

The proposed Project consists of a large-scale data center campus, upwards of 250MW, that is to be placed in a land parcel near the 230kV 'S' line between IID's El Centro switching station and SDG&E's Imperial Valley substation, which will serve as the POI for the Project. The Project had an assumed power factor of 0.95. The Figures 1, 2, & 3 below indicate the single line diagram, geographical location, and site plan of the Project.

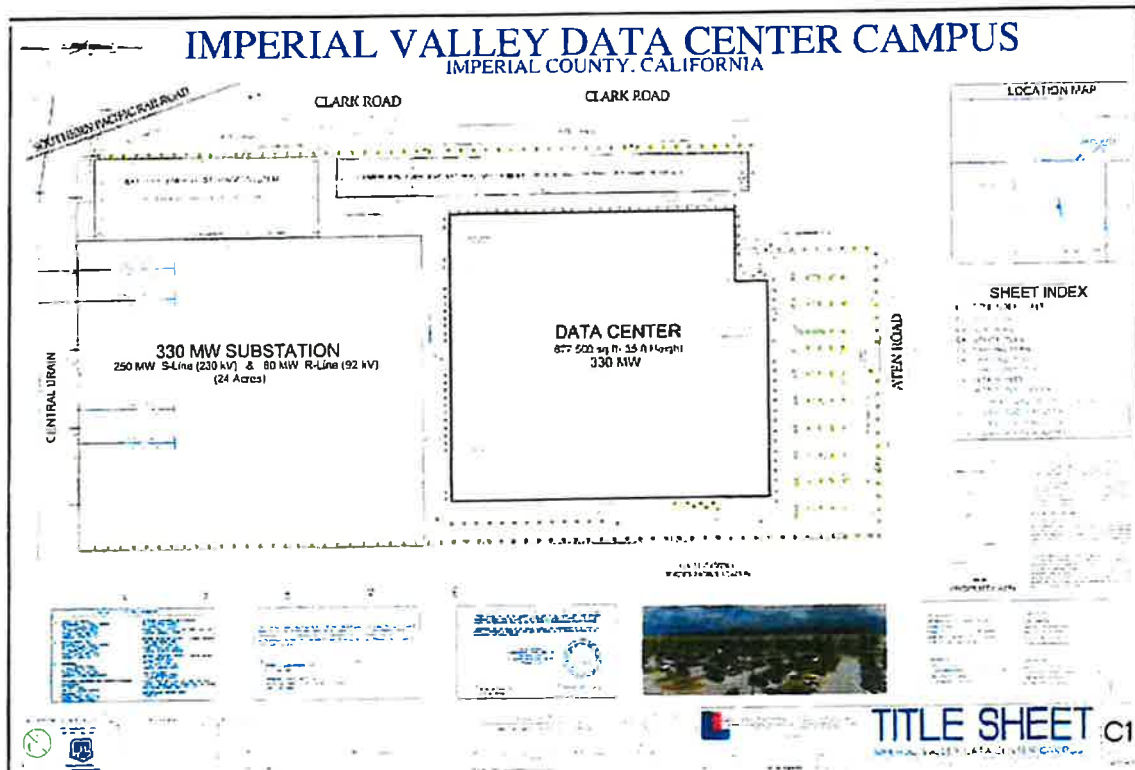


**FIGURE 1: PROJECT SINGLE LINE DIAGRAM**

**\*Note:** Based on a feasibility study, the initial proposed project at 500MW has now been reduced to 250MW. The single line has not been updated and serves as a high-level electrical representation.



**FIGURE 2: PROJECT GEOGRAPHICAL LOCATION**



**FIGURE 3: PROJECT SITE PLAN**



### 3. STUDY DATA ASSUMPTIONS AND METHODOLOGY

#### 3.1 BASE CASES AND ASSUMPTIONS

Various base cases were developed for this assessment with the intent to cover all critical operating scenarios, and to document all potential impacts that could be caused by the implementation of the Project. Any generation that had an executed Generation Interconnection Agreement (GIA), a Power Purchase Agreement (PPA), or a Tolling Agreement with the IID, and the project is in accordance with section 4.0 of IID's Planning Standards was included in the base cases. Distribution projects were included with either an executed Joint Power Agreement (JPA) or a finalized system impact study. The base cases were developed to represent the Heavy Summer operating conditions, representing high load with high generation output. A Heavy Summer sensitivity during the time frame of 1900-2100, representing high load with reduced solar output. Finally, Light Spring sensitivity, during the time frame of 0600-0800, representing moderate load with reduced solar output.

Table 1 below lists the WECC approved base cases that were used to model the IID system:

WECC Seed Case	PSLF Base Case Name	Description
Heavy Summer Peak Scenarios		
25HS4a.sav	27HS_IVCM_Peak_pre.sav	2027 Heavy Summer without Project (pre-case)
	27HS_IVCM_250MW_Peak.sav	2027 Heavy Summer with Project (250MW)
Heavy Summer Solar Reduced Scenarios		
25HS4a.sav	27HS_IVCM_Solar_Reduced_pre.sav	2027 Heavy Summer without Project (pre-case); 20% solar
	27HS_IVCM_250MW_Solar_Reduced.sav	2027 Heavy Summer with Project (250MW); 20% solar
Light Spring Early Morning Solar Reduced Scenarios		
26LSP15a.sav	27LSP_IVCM_Solar_Reduced_pre.sav	2027 Light Spring without Project (pre-case); 40% solar
	27LSP_IVCM_250MW_Solar_Reduced.sav	2027 Light Spring with Project (250MW); 40% solar

TABLE 1: SUMMARY OF BASE CASES ANALYZED

The GE PSLF version 23.0.8.2 software was used to analyze the pre and post Project study cases, with respect to the North American Electric Reliability Corporation (NERC) revised NERC TPL-001-5.1 standard, reflecting the use of P0-P7 outage categories and the corresponding WECC system performance criteria. GE PSLF was also used to check for system performance criteria violations in each of the post-Project cases when comparing to the corresponding pre-Project case. GE ProvisoHD was utilized to accumulate the power flow results in order to facilitate the comparison between pre and post Project cases. The base cases developed are designed to reflect the IID electrical system via loads, resources, topology and conditions expected when the project starts operation. While it is impossible to study all the IID transmission system flows and generation levels during all seasons, these pre-Project base cases represent extreme generation and transmission flows that will potentially expose any transmission constraints at the POI. However, the IID cannot guarantee that the Project can operate at its maximum rating year-round without impacting the transmission system, during times and seasons not studied.



### 3.2 METHODOLOGY

Steady state, transient stability and post-transient reactive margin analysis were performed for this assessment. Table 2 describes the type of analysis completed on each base case.

PSLF Base Case Name	Steady State	Transient Stability	Post Transient
27HS_IVCM_Peak_pre.sav	X	X	X
27HS_IVCM_250MW_Peak.sav	X	X	X
27HS_IVCM_Solar_Reduced_pre.sav	X	X	
27HS_IVCM_250MW_Solar_Reduced.sav	X	X	
27LSP_IVCM_Solar_Reduced_pre.sav	X	X	
27LSP_IVCM_250MW_Solar_Reduced.sav	X	X	

TABLE 2: DESCRIPTION OF THE ANALYSIS COMPLETED ON DEVELOPED BASE CASES VIA PSLF

#### 3.2.1 Steady State Contingency Analysis

The assessment considered all of IIDs credible single and multiple contingencies, as well as the most severe multiple contingencies within the IID system. External contingencies that are known to cause the most severe impacts to the IID transmission system were analyzed also. The scope of the steady-state analysis consisted of thermal, voltage magnitude and angle difference violations. The full suite of NERC standard TPL-001-5.1 contingency sets, P1-P7, was analyzed.

#### 3.2.2 Transient Stability Analysis

Transient stability analysis is a time-based simulation that assesses the performance of the power system shortly before, during, and after a transient disturbance. Initial conditions are characterized by the power flow case and model equations are used to simulate expected behavior from dynamic elements, such as generators and loads over time. Bus voltage and frequency plots are developed with an emphasis on all BES buses, and various non-BES buses in the IID system. These buses are the following:

##### ➤ BES Buses

- Alhambra Switching Station 161kV
- Arkansas Switching Station 161kV
- Avenue 58 161kV
- Calipatria Switching Station 230kV
- Coachella Switching Station 92kV
- Coachella Valley 92kV
- Coachella Valley 161kV
- Coachella Valley 230kV
- El Centro Switching Station 161kV
- El Cento Switching Station 230kV
- El Centro Switching Station 92kV
- Highline 230kV
- Hudson Ranch 230kV
- Midway 230kV
- Midway 92kV
- Nelson Switching Station 230kV
- Niland 161kV
- Pilot Knob 161kV
- Ramon 230kV
- Sonora Switching Station 230kV
- Yucca 161kV



▪ **Non-BES Buses**

- Ave 42 92kV
- Niland 92kV
- Ramon 92kV
- Ave. 58 92kV
- El Centro 34.5kV
- Blythe 161kV

Bus voltage plots provide a means of detecting out-of-step conditions and are useful to assess the magnitude and duration of post-disturbance voltage dips and peak-to-peak voltage oscillations. The voltage plots also indicate system damping response and the expected bus voltage following the disturbance. Bus frequency plots provide expected magnitude and duration of post-disturbance frequency swings, as well as indicating possible over-frequency or under-frequency conditions. Additionally, IID utilizes a dynamic criteria EPCL script to assist in evaluating if monitored buses meet WECC regional criteria as shown in Figures 4 and 5. The selected critical contingencies listed below in Table 3 were simulated for the transient stability analysis. This contingency list contains the most severe internal and external contingencies.

#	IID Critical Contingencies
1	P1 - Colorado River-Red Bluff 500kV Line Fault
2	P1 - Coachella Valley-Mirage 230kV Line Fault
3	P1 - Coachella Valley-Ramon 230kV Line Fault
4	P1 - Devers-Mirage 230kV Line Fault
5	P1 - Devers-Red Bluff 500kV Line Fault
6	P1 - El Centro Bank#4
7	P1 - Eco-Miguel 500kV Line Fault
8	P1 - El Centro-Mall 92kV Line Fault
9	P1 - El Centro Steam #2
10	P1 - Hassayampa-Hoodoowash 500kV Line Fault
11	P1 - Hassayampa-North Gila 500kV Line Fault
12	P1 - Imperial Valley-Eco 500kV Line Fault
13	P1 - Midway-Coachella Valley 230kV Circuit 1 Line Fault
14	P1 - Midway 1 Tap-Midway 92kV Circuit 1 Line Fault
15	P1 - N. Gila-Imperial Valley 500kV Line Fault
16	P1 - Paloverde-Colorado River 500kV Line Fault
17	P1 - Ramon Bank #1
18	P1 - Ramon-Mirage 230kV Line Fault
19	P1 - El Centro-Imperial Valley Data Center 230kV Line Fault
20	P1 - Imperial Valley Data Center-Imperial Valley 230kV Line Fault
21	P2 - Ave. 58 161kV Bus Fault
22	P2 - Colorado River Bus Fault
23	P2 - El Centro Bus #1 92kV Bus Fault
24	P2 - El Centro Bus #2 92kV Bus Fault



25	P2 - Midway 230kV Bus Fault
26	P6 - Coachella Valley-Mirage & Ramon-Mirage 230kV Line Fault
27	P7 - Devers-Mirage Circuit 1&2 230kV Line Fault
28	P7 - Coachella Valley-Mirage & Coachella Valley-Ramon 230kV Line Fault
29	P7 - Coachella Valley-Midway #1 and #2 230kV Line Fault

TABLE 3: CRITICAL CONTINGENCIES USED FOR TRANSIENT AND POST-TRANSIENT ANALYSIS

### 3.2.3 Post-Transient Analysis (Reactive Margin)

Post-transient stability analysis was performed on selected buses in the IID transmission system following selected, most severe, and critical outages. Moreover, governor power flow tools were used for the analysis. For each bus assessed, a synchronous condenser was modeled to determine the highest reactive power margin available on that bus. All BES and non-BES buses were monitored.

During post-transient simulations, the following assumptions were used:

- Loads were modeled as constant MVAs, during the post-transient time frame
- Reactive power output of the system swing generator was limited to its maximum capability
- No manual operator intervention was allowed to increase generator MVAR flow
- Remedial actions, such as generator dropping, load shedding, or blocking of automatic generator control were not considered for single outages

Positive reactive margin is desired at all of the buses. For the IID transmission system, the post-transient stability analysis criteria are the following:

- For transfer paths, all P0-P1 events shall demonstrate a positive reactive power margin at a minimum of 105 percent of transfer path flow.
- For transfer paths, all P2-P7 events shall demonstrate a positive reactive power margin at a minimum of 102.5 percent of transfer path flow.
- For load areas, all P0-P1 events shall demonstrate a positive reactive power margin at a minimum of 105 percent of forecasted peak load.
- For load areas, all P2-P7 events shall demonstrate a positive reactive power margin at a minimum of 102.5 percent of forecasted peak load.

Selected critical contingencies listed above in Table 3 were simulated for post-transient stability analysis. These contingencies included the most severe internal and external contingencies.

### 3.3 MODELING

The following section document the modeling methods used to represent the project in steady state and dynamics analyses.

#### 3.3.1 Power Flow Modeling

Equivalent load of project:

- A 250MW equivalent load on the 230kV IVCM data center bus.



### 3.3.2 Dynamic Models

WECC approved models from the GE PSLF library was used to represent the Project. For this Project, dynamic stability models included models for the following:

- Commercial and Industrial Load
  - WECC Composite Load Model: **cmpldw**

### 3.3.3 Remedial Action Scheme Modeling

Various Remedial Action Schemes (RAS) were modeled in conjunction with the various projects included in the base cases. A summary of the internal automatic actions taken are described below:

- South R-Line RAS: Open breaker "RNO" at Dixieland will send a trip signal to Ocotillo Wells Solar.
- North R-Line RAS: Loss of Anza to Oasis and Ave 58 will send a trip signal to Seville 3.
- "K" line SPS: Loss of the "K" line, "N" Line, and the loss of the Niland 92/161kV transformer will send a trip signal to Colgreen.
- Path 42 RAS:
  - Loss of the 230kV "KN" line between Coachella Valley and Mirage and the 230kV "KS" line between Coachella Valley and Ramon will send a trip signal to the identified generation.
  - Loss of the 230kV "KN" line between Coachella Valley and Mirage and the 230kV "KS" line between Ramon and Mirage will send a trip signal to the identified generation.
  - Devers-Mirage 1 & 2: Loss of circuit numbers 1 and 2 will send a trip signal to the identified generation.
- Path 42 RAS N-1:
  - Loss of the 230kV "KN" line between Coachella Valley and Mirage will send a trip signal to the identified generation.
  - Loss of the 230kV "KS" line between Coachella Valley and Ramon will send a trip signal to the identified generation.
  - Loss of the 230kV "KS" line between Ramon and Mirage will send a trip signal to the identified generation.
  - Loss of the 230kV "KN" line between Coachella Valley and Midway will send a trip signal to the identified generation.
  - Loss of the 230kV "KS" line between Coachella Valley and Midway will send a trip signal to the identified generation.
- Coachella Valley – Midway RAS:
  - Loss of the 230kV "KN" line between Coachella Valley and Midway will send a trip signal to the identified generation.
  - Loss of the 230kV "KS" line between Coachella Valley and Midway will send a trip signal to the identified generation.
- Midway Transformer RAS N-1:
  - Loss of either bank #1 or bank #2 92/230kV Transformer at Midway will send a trip signal to the identified generation.
- El Centro 161kV Bus RAS N-1:
  - Loss of the 161kV Bus at El Centro Switching will send a trip signal to the identified generation.



### 3.4 SYSTEM UPGRADES/MITIGATIONS

- Southern 92kV R-Line Upgraded – Q2 2026 (Ocotillo Mitigation)
- Coachella Valley Switching Station Upgrade – Q2 2026 (TPL-001)
- Ramon-Mirage 230kV Circuit 2 – Q4 2028 (TPL-001)
- 135MVAR Reactive Support at Ramon 230kV – Q2 2026 (IPP Mitigation)
- ECSS RAS N-1 – Q3 2025 (IPP Mitigation)
- Northern 92kV R-Line Upgraded – Q4 2026 (IPP Mitigation)
- Midway Transformer RAS – Q4 2025 (IPP Mitigation)

### 4. STUDY CRITERIA

Grid Reliability Criteria, which incorporates the WECC and NERC planning criteria, was used for this assessment. IID's standards and procedures were followed during the study process.

#### 4.1 NERC RELIABILITY STANDARDS

The need for transmission upgrades and additions was determined in accordance with NERC Reliability Standards. These standards set forth criteria for system performance requirements, which must be met under specific set of operating conditions. The following NERC Reliability Standards are applicable to the Transmission Operators (TOs) as registered NERC Planning Authorities, Transmission Planners, and are the primary standards for the interconnection of new facilities and system performance:

- FAC-001: Facility Connection Requirements
- FAC-002: Coordination of Plans for New Facilities
- TPL-001-5.1: Transmission System Planning Performance Requirements

#### 4.2 WECC RELIABILITY CRITERIA

The WECC TPL system performance criteria, TPL-001-WECC-CRT-4, sets forth additional requirements that must be met under various, but specific set of operating conditions and may be applicable to the TOs as Planning Authorities.

#### 4.3 STEADY STATE STUDY CRITERIA

The system performance, with the addition of the Project, was evaluated under normal conditions and following losses of a single or multiple Bulk Electric System (BES) element(s), as defined by the applicable reliability standards and criteria. Figure 4: Listing of TPL-001-5.1 P1-P7 contingency descriptions summarizes the contingencies per NERC Reliability Standards, and WECC Regional Criteria.



Category	Initial Condition	Event <sup>1</sup>	Fault Type <sup>2</sup>	BEB Level <sup>3</sup>	Interruption of Firm Transmission Service Allowed <sup>4</sup>	Non-Consequential Load Loss Allowed
P0 No Contingency	Normal System	None	N/A	EHV, HV	No	No
P1 Single Contingency	Normal System	Loss of one of the following: 1. Generator 2. Transmission Circuit 3. Transformer <sup>5</sup> 4. Shunt Device <sup>6</sup>	3Ø	EHV, HV	No <sup>8</sup>	No <sup>7</sup>
		5. Single Pole of a DC line	SLG			
P2 Single Contingency	Normal System	1. Opening of a line section into a fault <sup>7</sup>	N/A	EHV, HV	No <sup>8</sup>	No <sup>7</sup>
		2. Bus Section Fault	SLG	EHV	No <sup>8</sup>	No
		3. Internal Breaker Fault <sup>8</sup> (non-Bus-be Breaker)	SLG	HV	Yes	Yes
		4. Internal Breaker Fault (Bus-be Breaker) <sup>8</sup>	SLG	EHV, HV	Yes	Yes
P3 Multiple Contingency	Loss of generator unit followed by System adjustments <sup>9</sup>	Loss of one of the following: 1. Generator 2. Transmission Circuit 3. Transformer <sup>5</sup> 4. Shunt Device <sup>6</sup>	3Ø	EHV, HV	No <sup>8</sup>	No <sup>7</sup>
		5. Single pole of a DC line	SLG			
P4 Multiple Contingency (Fault plus stuck breaker <sup>10</sup> )	Normal System	Loss of multiple elements caused by a stuck breaker <sup>10</sup> (non-Bus-be Breaker) attempting to clear a Fault on one of the following: 1. Generator 2. Transmission Circuit 3. Transformer <sup>5</sup> 4. Shunt Device <sup>6</sup> 5. Bus Section	SLG	EHV	No <sup>8</sup>	No
		6. Loss of multiple elements caused by a stuck breaker <sup>10</sup> (Bus-be Breaker) attempting to clear a Fault on the associated bus	SLG	HV	Yes	Yes
P5 Multiple Contingency (Fault plus relay failure to operate)	Normal System	Delayed Fault Clearing due to the failure of a non-redundant relay <sup>11</sup> protecting the Faulted element to operate as designed, for one of the following: 1. Generator 2. Transmission Circuit 3. Transformer <sup>5</sup> 4. Shunt Device <sup>6</sup> 5. Bus Section	SLG	EHV	No <sup>8</sup>	No
			SLG	HV	Yes	Yes
P6 Multiple Contingency (Two overlapping angles)	Loss of one of the following followed by System adjustments <sup>9</sup> 1. Transmission Circuit 2. Transformer <sup>5</sup> 3. Shunt Device <sup>6</sup> 4. Single pole of a DC line	Loss of one of the following: 1. Transmission Circuit 2. Transformer <sup>5</sup> 3. Shunt Device <sup>6</sup>	3Ø	EHV, HV	Yes	Yes
		4. Single pole of a DC line	SLG			
P7 Multiple Contingency (Common Structure)	Normal System	The loss of: 1. Any two adjacent (vertically or horizontally) circuits on common structure <sup>11</sup> 2. Loss of a bipolar DC line	SLG	EHV, HV	Yes	Yes

FIGURE 4: LISTING OF TPL-001-5.1 P1-P7 CONTINGENCY DESCRIPTIONS

#### 4.3.1 Normal Overloads

Normal overloads are those that exceed 100 percent of normal facility rating under NERC Category P0 conditions (no contingencies). Normal overloads are identified in the Reliability Study power flow analysis, in accordance with the Reliability Standard, TPL-001-5.1. It is required that loading of all transmission system facilities be within their normal ratings under NERC Category P0 conditions.

#### 4.3.2 Emergency Overloads

Emergency overloads are those that exceed 100 percent of emergency ratings under NERC and WECC Category P1-P7 contingency conditions. Emergency overloads are identified in the Reliability Study power flow analysis in accordance with Reliability Standards, TPL-001-5.1. It is required that loading of all transmission system facilities be within their emergency ratings under the Category P1-P7 contingency conditions.



### 4.3.3 Voltage Criteria

A voltage criteria violation occurs if a bus within the transmission system, of each TO, fails to meet the requirements defined in Table 4. For Voltage Criteria, bus voltages are relative to the nominal bus voltages of the system under study.

Voltage Level	Normal Conditions (P0)		Contingency Conditions (P1-P7)		Voltage Deviation	
	VMIN (p.u.)	VMAX (p.u.)	VMIN (p.u.)	VMAX (p.u.)	Load Buses (P1)	Non-Load (P1) & All Buses (P2-P7)
≤200kV	0.95	1.05	0.9	1.1	≤8%	≤10%
≥200kV	0.95	1.05	0.9	1.1	≤8%	≤10%
≥500kV	0.95	1.05	0.9	1.1	≤8%	≤10%

TABLE 1: VOLTAGE CRITERIA

The maximum total voltage deviation for P3 and P6 events will be measured from the voltage that exists after the initial condition and therefore takes into consideration only voltage deviation due to the second event. Buses within the IID controlled grid that cannot meet the requirements in Table 4 will be further investigated.

### 4.3 TRANSIENT STABILITY DATA

Transient stability analysis is a time-based simulation that assesses the performance of the power system shortly before, during, and quickly following a contingency. Transient stability studies were performed to verify the stability of the system following a system fault. Transient stability analysis was performed based on the WECC Disturbance-Performance Criteria, for selected system contingencies, using Version 23.0.8.2 of the GE PSLF software. Transient stability contingencies were simulated for a minimum of 10 seconds, including 1 second of pre-disturbance data. Unless specified, all faults were modeled as 3-phases with 4 cycles of breaker clearing time. System damping was assessed visually with the aid of stability plots.

#### 4.4.1 Bus Voltage

Bus voltage plots provide a means of detecting out-of-step conditions and are useful to assess the magnitude and duration of post-disturbance voltage dips and peak-to-peak voltage oscillations. The voltage plots also indicate system damping response and the expected bus voltage following the disturbance. WECC Regional Criteria, TPL-001-WECC-CRT-4, requires that the following criteria be applied:

- Following fault clearing, the voltage shall recover to 80% of the pre-contingency voltage within 20 seconds of the initiating event for all P1 through P7 events, and for each applicable BES bus serving load.
- Following fault clearing and voltage recovery above 80%, voltage at each applicable BES bus serving load shall neither dip below pre-contingency voltage, for more than 30 cycles, nor remain below 80% of pre-contingency voltage for more than 2 seconds, for all P1 through P7 events.
- For contingencies without a fault (P2.1 category event), voltage dips at each applicable BES bus serving load shall neither dip below 70% of pre-contingency voltage, for more than 30 cycles, nor remain below 80% of pre-contingency voltage for more than two seconds.
- All oscillations that do not show positive damping within 30-seconds, after the start of the studied event, shall be deemed unstable.

- Figure 5 and 6 represent the acceptable recovery trajectory.

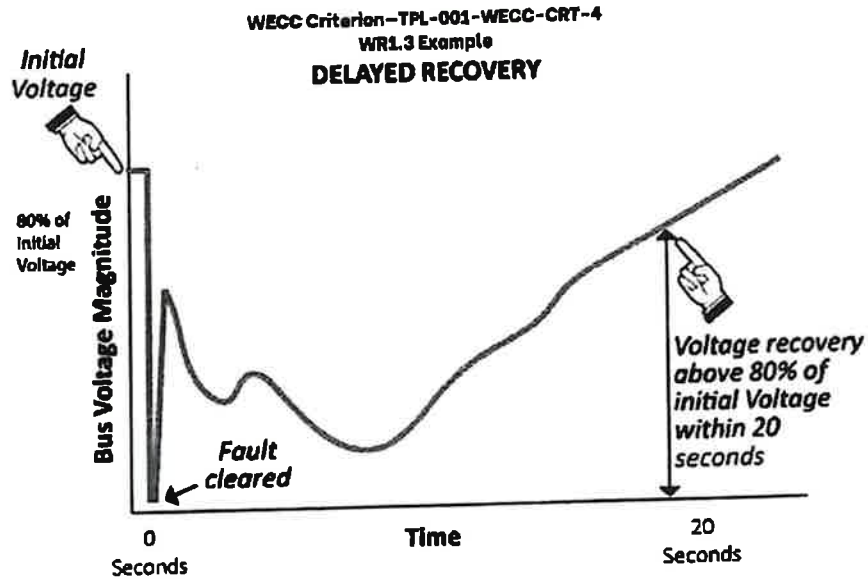


FIGURE 5: WECC DIAGRAM REPRESENTING ADEQUATE VOLTAGE RECOVERY (DELAYED)

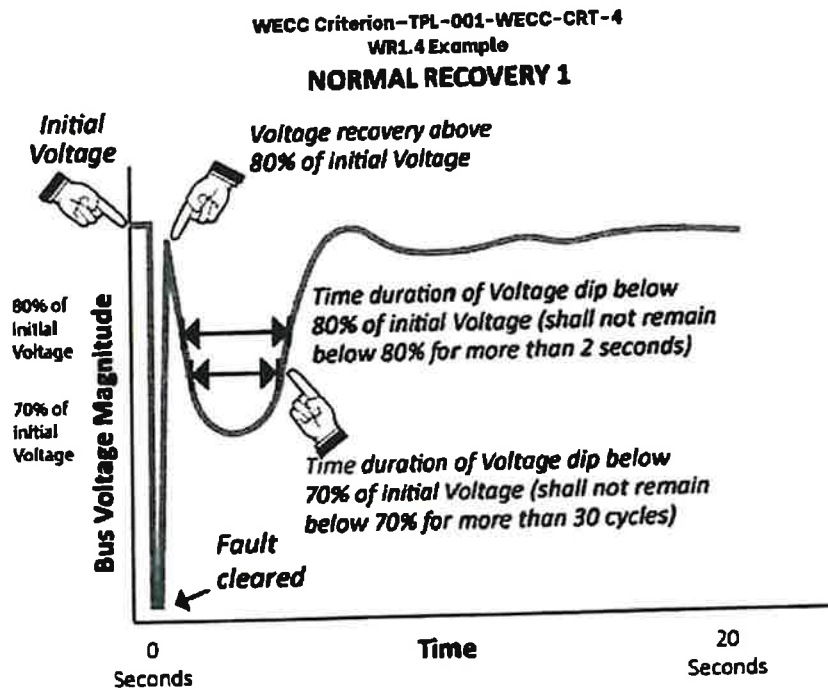


FIGURE 6: WECC DIAGRAM REPRESENTING ADEQUATE VOLTAGE RECOVERY (NORMAL)



#### 4.4.2 Bus Frequency

Bus frequency plots provide expected magnitude and duration of post-disturbance frequency swings, and possible over-frequency or under-frequency conditions. WECC Regional Criteria, TPL-001-WECC-CRT-4, requires that the following be applied:

- All oscillations that do not show positive damping, within 30-seconds, after the start of the studied event, shall be deemed unstable.

#### 4.5 REACTIVE MARGIN CRITERIA

Post-transient stability analysis was performed on selected buses in the IID transmission system, following selected critical outages. For each bus assessed, a synchronous condenser was modeled to extract reactive power, until the point where voltage collapse occurs. The maximum reactive power consumed prior to the voltage collapse is determined. Positive reactive margin is desired at all buses.

### 5. STUDY RESULTS

This System impact study modeled the new load with a total of 250MW for summer and light spring scenarios. The following analysis tested the impact of the load addition on the reliability of IID's electrical system.

#### 5.1 POWER FLOW ANALYSIS:

Power flow analysis was performed using the base cases identified in Table 1, under Section 3. System thermal and voltage performance were tested during normal and emergency (contingency) conditions, in order to compare pre-Project and post-Project scenarios. Identified impacts, if any, are caused solely by this Project.

Thermal and voltage performance of the system was evaluated for base cases under normal, (P0), single element outage, (P1, P2), and selected multiple element outages, (P3-P7). Thermal loadings were reported when a model transmission component was loaded above 95% of its continuous MVA rating, (P0), and above 95% of its emergency rating, (P1-P7). Generally, the concerns are raised when an element is found loaded above 100% of its normal or emergency rating; however, 95% was chosen to identify circuits that are also at the edge of an overload. Moreover, such circuits need to be closely monitored and can be placed as potential candidates for future upgrades.

Transmission voltage violations for normal, (P0), conditions were reported when per unit voltages were less than 0.95 or greater than 1.05. Transmission voltage violations, following single or multiple outages, were reported when per unit voltages were less than 0.90 or greater than 1.1. Voltage deviations were recorded whenever these deviations were greater than 8% for load serving buses and 10% non-load serving buses.

The steady state study results for each of the cases is described in the following sections, while the complete results can be found in Appendix B.



### 5.1.1 (2027) Heavy Summer Peak

#### 5.1.1.1 Voltage and Thermal Performance

- The project did not cause any buses in the base case to experience voltage exceedances or deviations with respect to the criteria on Table 4.
- The project did not cause thermal violations in IID's system.

### 5.1.2 (2027) Heavy Summer Peak Solar Reduced 20%

#### 5.1.2.1 Voltage and Thermal Performance

- The project did not cause any buses in the base case to experience voltage exceedances or deviations with respect to the criteria on Table 4.
- The project did not cause thermal violations in IID's system.

### 5.1.3 (2027) Light Spring Solar Reduced 40%

#### 5.1.3.1 Voltage and Thermal Performance

- The project did not cause any buses in the base case to experience voltage exceedances or deviations with respect to the criteria on Table 4.
- The project did not cause thermal violations in IID's system.

## 5.2 TRANSIENT STABILITY ANALYSIS

Transient stability was performed on the Heavy Summer and Light Spring pre- and post- Project base cases.

### 5.2.1 (2027) Heavy Summer Transient Stability Results

These simulation results show that the Project did not cause impacts on IID system stability under any of the simulated contingencies.

Refer to Appendix C for the 2027 Heavy Summer Transient pre and post stability plots.

### 5.2.2 (2027) Heavy Summer Solar Reduced Transient Stability Results

These simulation results show that the Project did not cause impacts on IID system stability under any of the simulated contingencies.

Refer to Appendix D for the 2027 Heavy Summer Solar Reduced transient pre and post stability plots.

### 5.2.3 (2027) Light Spring Solar Reduced Transient Stability Results

These simulation results show that the Project did not cause impacts on IID system stability under any of the simulated contingencies.

Refer to Appendix E for the 2027 Light Spring Solar Reduced transient pre and post stability plots.

## 5.3 POST TRANSIENT STABILITY AND REACTIVE POWER MARGIN: HEAVY SUMMER

Post-transient stability was performed on selected buses in IID transmission system following selected critical outages. Results show that the Project did not cause impacts on IID System reactive margin under any of the simulated contingencies

Refer to Appendix F for complete post-transient voltage (reactive margin) results.



## **6. CONCLUSION**

The System Impact Study modeled the new load with a total of 250MW for summer and light spring scenarios. The following analysis tested the impact of the load addition on the reliability of IID's electrical system. The Project's POI is located on the 230kV 'S' Line between IID's El Centro substation and SDG&E's Imperial Valley substation. The study evaluated different seasons and generation scenarios for the Project's target year, using Heavy Summer and Light Spring cases. Below are the findings and results for this loading scenario:

### **250 MW load**

- Results showed there were no thermal violations in IID's transmission system under PO-P7 contingencies. Project did not cause any buses to experience voltage exceedances or deviations.
- Results showed there were no transient stability violations in IID's transmission system under any of the simulated contingencies.

Study results show that this project can be deemed feasible. Please note that IID currently does not have the capability to reliably support a large-scale load requiring continuous 24-hour service. As such, this report does not represent a commitment by IID to serve the amount of requested load.

# EXHIBIT 9

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# Data Centers and Water Consumption

By [Miguel Yañez-Barnuevo \(/authors/miguel-yanez\)](#) ✉ (mailto: [myanez@eesi.org](mailto:myanez@eesi.org))

June 25, 2025

### Highlights:

- Data center developers are increasingly tapping into freshwater resources to quench the thirst of data centers, which is putting nearby communities at risk.
- Large data centers can consume up to 5 million gallons *per day*, equivalent to the water use of a town populated by 10,000 to 50,000 people.
- With larger and new AI-focused data centers, water consumption is increasing alongside energy usage and carbon emissions.
- Novel technologies like direct-to-chip cooling and immersion cooling can reduce water and energy usage by data centers.

Data centers have a thirst for water, and their rapid expansion threatens freshwater supplies. Only 3% of Earth's water is freshwater, and only 0.5% of all water (<https://www.eesi.org/articles/view/how-water-reuse-can-address-scarcity>) is accessible and safe for human consumption. Freshwater is critical for survival. On average, a human being can live without water for only three days (<https://www.medicalnewstoday.com/articles/325174#how-long-can-you-live-without-water>). Increasing drought and water shortages are reducing water availability (<https://www.eesi.org/articles/view/how-water-reuse-can-address-scarcity>). Meanwhile, data center developers are increasingly tapping into surface and underground aquifers to cool their facilities.

Data center water usage closely parallels energy usage and carbon emissions. As data centers use more energy for their typical data center operations and to meet AI requests, they consume larger amounts of water to cool their processor chips, so as to avoid overheating and potential damage. Similarly, as energy use increases in data centers, so do carbon emissions.

A medium-sized data center can consume up to roughly 110 million gallons of water (<https://www.npr.org/2022/08/30/1119938708/data-centers-backbone-of-the-digital-economy-face-water-scarcity-and-climate-ris>) per year for cooling purposes, equivalent to the annual water usage of approximately 1,000 households. Larger data centers can each "drink" up to 5 million gallons per day, or about 1.8 billion annually (<https://www.washingtonpost.com/climate-environment/2023/04/25/data-centers-drought-water-use/>), usage equivalent to a town of 10,000 to 50,000 people. Together, the nation's 5,426 data centers (<https://www.eesi.org/articles/view/data-center-energy-needs-are-upending-power-grids-and-threatening-the-climate>) consume billions of gallons of water annually. One report estimated that U.S. data centers consume 449 million gallons of water per day (<https://www.nature.com/articles/s41545-021-00101-w>) and 163.7 billion gallons annually (as of 2021). A 2016 report (<https://journal.uptimeinstitute.com/dont-ignore-water-consumption/>) found that fewer than one-third of data center operators track water consumption. Water consumption is expected to continue increasing as data centers grow in number, size, and complexity.

According to scientists at the University of California, Riverside, each 100-word AI prompt is estimated to use roughly one bottle of water (<https://www.washingtonpost.com/technology/2024/09/18/energy-ai-use-electricity-water-data-centers/>) (or 519 milliliters). This may not sound like much, but billions of AI users worldwide enter prompts into systems like ChatGPT every minute. Large language models require many energy-intensive calculations (<https://insideclimatenews.org/news/28092024/ai-water-usage/>), necessitating liquid cooling systems.

### The Water Cycle of Data Centers

### AI/Data Center Resources

- [Article | Data Center Energy Needs Could Upend Power Grids and Threaten the Climate](#) (<https://www.eesi.org/articles/view/data-center-energy-needs-are-upending-power-grids-and-threatening-the-climate>)
- [Briefing | Artificial Intelligence: Implications for Energy and the Environment](#) (<https://www.eesi.org/briefings/view/092525ai>)
- [All EESI Data Center Resources](#) (<https://www.eesi.org/page/Data+Centers>)

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A data center's water footprint is calculated as the sum of three categories (<https://arxiv.org/pdf/2304.03271>): on-site water usage, water use by power plant facilities that supply power to data centers, and water consumption during the manufacturing process of processor chips. Water can come from various sources, including blue sources (<https://iopscience.iop.org/article/10.1088/1748-9326/abfba1>) (e.g., surface water and groundwater), piped sources such as municipal water, and gray sources (e.g., purified reclaimed water). Using recycled or non-potable water to meet a data center's cooling needs is a well-established practice to conserve limited potable water resources, particularly in dry or drought-prone areas.

In the context of data centers, "water consumption" (<https://arxiv.org/pdf/2304.03271>) refers to the amount of water withdrawn from blue or gray sources minus the water discharged by the centers (primarily warm water left over from cooling the IT racks). The consumed water is generally the water that evaporates or is otherwise taken out of immediate human usage. Withdrawal of fresh water from local streams or underground aquifers may lead to aquifer exhaustion, particularly in water-stressed areas.

Researchers at The Green Grid (<https://www.thegreengrid.org/>), a nonprofit industry consortium, developed a metric called Water Usage Effectiveness (<https://www.datacenterknowledge.com/cooling/a-guide-to-data-center-water-usage-effectiveness-wue-and-best-practices>) (WUE) to measure water usage by data centers. Similar to the Power Usage Effectiveness ([https://www.vertiv.com/en-emea/about/news-and-insights/articles/educational-articles/what-is-pue-power-usage-effectiveness-and-what-does-it-measure/#:~:text=Does%20it%20Measure?-,What%20is%20PUE%20\(Power%20Usage%20Effectiveness\)%20and%20What%20Does%20It,There%20are%20several%20practical%20considerations](https://www.vertiv.com/en-emea/about/news-and-insights/articles/educational-articles/what-is-pue-power-usage-effectiveness-and-what-does-it-measure/#:~:text=Does%20it%20Measure?-,What%20is%20PUE%20(Power%20Usage%20Effectiveness)%20and%20What%20Does%20It,There%20are%20several%20practical%20considerations)) (PUE) metric, which measures the energy efficiency of a data center, the WUE metric assesses the efficiency of a data center's water use. WUE is reported in liters per kilowatt-hour (kWh) (<https://www.datacenterknowledge.com/cooling/a-guide-to-data-center-water-usage-effectiveness-wue-and-best-practices>): a data center's total water consumption, measured in liters, is divided by the total energy consumed by that data center in kilowatt-hours in the same time period. While "0" is the ideal WUE score (<https://www.datacenterknowledge.com/cooling/a-guide-to-data-center-water-usage-effectiveness-wue-and-best-practices>), this can only be achieved in air-cooled data centers, and most data centers cannot meet this target due to their location's climate conditions. The average WUE across data centers is 1.9 liters per kWh (<https://www.datacenterknowledge.com/cooling/a-guide-to-data-center-water-usage-effectiveness-wue-and-best-practices>), which is a great goal to beat.

Data centers' water usage depends on various factors, including location, climate, water availability, size, and IT rack chip densities. In hotter climates, like in the southwest United States, data centers need to use more water to cool the building and equipment. With the increasing number of centers supporting AI requests, chip density is also growing, which leads to higher room temperatures, necessitating the use of more water chillers at the server level to maintain cool temperatures. Most data centers use a combination of chillers and on-site cooling towers to avoid chip overheating.

Cooling data centers is a complex operation (<https://arxiv.org/pdf/2304.03271>). At the server level, water chillers cool IT rooms to maintain optimal temperatures and prevent damage to chips. This can be achieved through air cooling using water evaporation, which is an open-loop and more water-intensive method, or through server liquid cooling (<https://www.datacenterdynamics.com/en/analysis/an-introduction-to-liquid-cooling-in-the-data-center/>). Server cooling is a more expensive approach that delivers the liquid coolant directly to the graphics processing units (GPUs) and central processing units (CPUs). Direct-to-chip liquid cooling and immersive liquid cooling (<https://www.datacenterdynamics.com/en/analysis/an-introduction-to-liquid-cooling-in-the-data-center/>) are two standard server liquid cooling technologies that dissipate heat while significantly reducing water consumption. During immersive cooling, water or specialized synthetic liquids flood the chips, absorbing the heat. The difference between direct server liquid cooling and air cooling through evaporation can be compared to the difference between drip irrigation and flooding in agriculture.

In areas with limited water availability (<https://www.npr.org/2022/08/30/1119938708/data-centers-backbone-of-the-digital-economy-face-water-scarcity-and-climate-ris>), server liquid cooling is the best choice, as it requires minimal water consumption. Conversely, in areas with a strained power grid, an evaporative air cooling tower is a suitable building design, as it requires minimal power usage.

Regardless of the approach chosen, a heat exchanger is necessary to capture (<https://blog.equinix.com/blog/2024/09/19/how-data-centers-use-water-and-how-were-working-to-use-water-responsibly/>) the hot air or hot water produced as a byproduct of the cooling process. Hot water coming from the servers is cooled by water from either the air-cooled chiller or a cooling tower. Likewise, hot air is exchanged with cooler air. A heat exchanger transfers heat from the server room to the building's cooling system.

Approximately 80% of the water (<https://arxiv.org/pdf/2304.03271>) (typically freshwater) withdrawn by data centers evaporates, with the remaining water discharged to municipal wastewater facilities. The large volume of wastewater from data centers may overwhelm existing (<https://ketos.co/ai-data-centers-wastewater-discharge-and-the-growing-need-for-effective-water-management/#:~:text=The%20influx%20of%20wastewater%20from,time%20to%20manage%20the%20influx.>) local facilities, which were not designed to handle such a high volume.

Besides on-site water consumption, a significant portion of data center water usage originates from the power facilities where they obtain their energy. Because 56% of the electricity used to power data centers nationwide (<https://arxiv.org/pdf/2411.09786>) comes from fossil fuels, a significant portion of data center water consumption is derived from steam-generating power plants. Fossil fuel power plants rely on large boilers filled with water that is superheated by natural gas or coal to produce steam, which in turn rotates a turbine and generates electricity. Water withdrawals from these power plants ([https://www.srs.fs.usda.gov/pubs/ja/2023/ja\\_2023\\_caldwell\\_002.pdf](https://www.srs.fs.usda.gov/pubs/ja/2023/ja_2023_caldwell_002.pdf)) are a significant source of water stress, particularly in drought-prone areas and in the summer, when water levels are lower and electricity demands are higher.

A federal report estimated (<https://eta-publications.lbl.gov/sites/default/files/2024-12/lbnl-2024-united-states-data-center-energy-usage-report.pdf>) that the indirect water consumption footprint (from electricity use) of data centers in the United States was roughly 211 billion gallons in 2023. Given that 176 terawatt-hours (TWh) of electricity were consumed by data centers in 2023, the centers' indirect water consumption can be estimated at 1.2 gallons per kWh on average nationally in 2023. As data centers are expected to consume up to 1,050 TWh annually by 2030 (<https://www.eesi.org/articles/view/data-center-energy-needs-are-upending-power-grids-and-threatening-the-climate>), water usage will increase in parallel.

Chip and server manufacturing are significant sources of water consumption for data centers. Semiconductors and computer chips are integral to data center processing. Each server in a data center contains multiple CPUs, GPUs, and memory chips. (<https://ifp.org/how-to-build-an-ai-data-center/>) Larger data centers and those that support AI requests can contain tens of thousands of servers, each with multiple chips. Ultrapure water is ideal for cleaning,

etching, and rinsing chips during the manufacturing process. (<https://www.weforum.org/stories/2024/07/the-water-challenge-for-semiconductor-manufacturing-and-big-tech-what-needs-to-be-done/>) Creating ultrapure water is a highly water-intensive process, requiring approximately 1,500 gallons of piped water to produce 1,000 gallons of ultrapure water. An average chip manufacturing facility (<https://www.weforum.org/stories/2024/07/the-water-challenge-for-semiconductor-manufacturing-and-big-tech-what-needs-to-be-done/>) consumes approximately 10 million gallons of ultrapure water per day. A single chip installed in a data center has already consumed thousands (<https://cwrrr.org/resources/analysis-reviews/8-things-you-should-know-about-water-and-semiconductors/>) of gallons of water by the time it reaches the site.



*Water-cooled high computing systems in a data center.  
Credit: ECMWF Data Center.*

### Water Impacts in Nearby Communities

The water consumption of the 5,426 data centers nationwide (<https://www.statista.com/statistics/1228433/data-centers-worldwide-by-country/>) is already impacting local communities. Northern Virginia is considered the world capital for data centers, with over 300 operational data centers (<https://www.governing.com/infrastructure/the-data-center-capital-of-the-world-is-in-virginia>) spread across four counties: Fairfax, Loudoun, Prince William, and Fauquier (<https://www.ft.com/content/1d468bd2-6712-4cdd-ac71-21e0ace2d048>). Collectively, all data centers in Northern Virginia consumed close to 2 billion gallons of water in 2023, a 63% increase from 2019 (<https://www.ft.com/content/1d468bd2-6712-4cdd-ac71-21e0ace2d048>). Loudoun County, with approximately 200 (<https://virginiabusiness.com/loudoun-county-advances-changes-to-data-center-regulations/>) operational data centers, used around 900 million gallons of water in 2023 (<https://vcnva.org/agenda-item/responsible-data-center-development/>). This has led Loudoun Water, the county's water authority, to rely heavily on potable water for data centers rather than reclaimed water.

### Making Data Centers More Water-Efficient

Data center developers' most common choice is to withdraw water from blue sources and employ water-intensive practices, such as air cooling through water evaporation. However, there are other options. To make a more sustainable choice for nearby communities and ecosystems, developers can instead use innovative water management techniques to reduce water consumption, including closed-loop cooling systems, immersion cooling, air cooling, and using non-potable water sources (e.g., recycled wastewater and captured water).

**Closed-loop cooling systems** enable the reuse of both recycled wastewater and freshwater, allowing water supplies to be used multiple times. A cooling tower can use external air to cool the heated water, allowing it to return to its original temperature. These systems can reduce freshwater use by up to 70% (<https://www.weforum.org/stories/2024/11/circular-water-solutions-sustainable-data-centres/#:~:text=To%20further%20mitigate%20the%20broader,Aquapreneur%20Innovation%20Initiative%2C%20visit%20UpLink.>).

**Free cooling** is a method where outside cold air is drawn into the data center to cool the equipment. Data centers must be located in cooler climates for this strategy to be effective.

**Air cooling** involves air conditioning vents and tubes that remove heat generated by chips (<https://www.digitalrealty.com/resources/articles/future-of-data-center-cooling>) as they process data and AI requests. This method is most effective in areas where electricity is cheaper and water resources are limited.

**Immersion cooling** in data centers involves bathing servers, chips, and other components in a specialized dielectric (or non-conductive) fluid. Hardware is submerged in specially designed tanks filled with the coolant. (<https://www.grcooling.com/blog/forecasting-data-center-immersion-cooling-technology/#:~:text=Immersion%20cooling%20submerges%20computer%20hardware,it%20into%20a%20heat%20exchanger.>) The non-conductive liquid absorbs the heat from the chips and transfers it to a heat exchanger, where it is cooled down before flowing back into the tank. Immersion cooling is a novel process that entails higher upfront costs than conventional direct liquid cooling, but provides significant energy savings and space-optimization benefits for data center developers. Since the technology uses synthetic fluids, it requires significantly less water than other approaches.

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Powering data centers with renewable energy sources, like solar or wind, requires significantly less water consumption than obtaining energy from fossil fuel power plants. With approximately 56% of the electricity used to power data centers nationwide (<https://arxiv.org/pdf/2411.09786>) coming from fossil fuels, deploying more clean energy to power these facilities can significantly reduce water consumption. Coal plants are the most water-intensive facilities, requiring approximately 19,185 gallons of water (<https://www.eia.gov/todayinenergy/detail.php?id=56820#:~:text=Natural%20gas%20plants%20use%20a,19%2C185%20gal%2FMWh%20for%20coal.>) per megawatt-hour (MWh) of power generation. Natural gas power plants consume approximately 2,800 gallons per MWh (<https://www.eia.gov/todayinenergy/detail.php?id=56820#:~:text=Natural%20gas%20plants%20use%20a,19%2C185%20gal%2FMWh%20for%20coal.>). In 2022, 40% of all total U.S. annual water withdrawals, or about 48.5 trillion gallons (<https://iopscience.iop.org/article/10.1088/1748-9326/ad6fb8>), were made by coal and gas power plants. Of those 48.5 trillion gallons, 962 billion gallons of water were consumed (<https://iopscience.iop.org/article/10.1088/1748-9326/ad6fb8>) and were no longer available for direct downstream use. Meanwhile, rooftop solar panels and wind turbines do not need any cooling water, and they are not a steam-based energy technology like coal and natural gas.

If the United States moves toward 100% renewable energy generation and the retirement of fossil fuel plants, the water savings would be enormous, with billions of gallons of water saved, and more freshwater would be available for both human consumption and natural ecosystems.

**Author: Miguel Yañez-Barnuevo**

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# EXHIBIT 10

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In this Section



# Data Drain: The Land and Water Impacts of the AI Boom

By *Jon Gorey*, October 17, 2025



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from sunlight, active all night. And much like a vampire, at least according to folkloric tradition, it can only enter a place if it's been invited inside.

In states and counties across the US, lawmakers aren't just opening the door for these metaphorical, mechanical monsters. They're actively luring them in, with tax breaks and other incentives, eager to lay claim to new municipal revenues and a piece of the explosive growth surrounding artificial intelligence.

That may sound hyperbolic, but data centers truly are **resource-ravenous**. Even a mid-sized data center consumes as much water as **a small town**, while larger ones require up to 5 million gallons of water every day—as much as a city of 50,000 people.

Powering and cooling their rows of server stacks also takes an astonishing amount of electricity. A conventional data center—think cloud storage for your work documents or streaming videos—draws as much electricity as 10,000 to 25,000 households, **according to the International Energy Agency**. But a newer, AI-focused “hyperscale” data center can use as much power as 100,000 homes or more. Meta's Hyperion data center in Louisiana, for example, is expected to draw more than twice the power of the entire city of New Orleans once completed. Another Meta data center **planned in Wyoming** will use more electricity than every home in the state combined.

And of course, unlike actual clouds, data centers require land. Lots of it. Some of the largest data centers being built today will cover hundreds of acres with impermeable steel, concrete, and paved surfaces—land that will no longer be available for farmland, nature, or housing—and require new transmission line corridors and other associated infrastructure as well.

Data centers have been part of our built landscape for over a decade, however—many of them tucked into unassuming office parks, quietly processing our web searches and storing our cellphone photos. **PG ORIGINAL PKG** So why the sudden concern? Artificial intelligence

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investing quickly and heavily in AI.

The number of US data centers more than doubled between 2018 and 2021 and, fueled by investments in AI, that number has already doubled again. Early in the AI boom, in 2023, US data centers consumed **176 terawatt-hours of electricity**, roughly as much as the **entire nation of Ireland** (whose electric grid is itself nearly maxed out, prompting data centers there to **use polluting off-grid generators**), and that's expected to **double or even triple** as soon as 2028.

This rapid proliferation can put an enormous strain on local and regional resources—burdens that many host communities are not fully accounting for or prepared to meet.

“Demand for data centers and processing has just exploded exponentially because of AI,” says Kim Rueben, former senior fiscal systems advisor at the Lincoln Institute of Land Policy. Virginia and Texas have long had tax incentives in place to attract new data centers, and “**other states** are jumping on the bandwagon,” she says, hoping to see economic growth and new tax revenues.

But at a Land Policy and Digitalization conference convened by the Lincoln Institute last spring, Rueben likened the extractive nature of data centers to coal mines. “I don't think places are acknowledging all the costs,” she says.

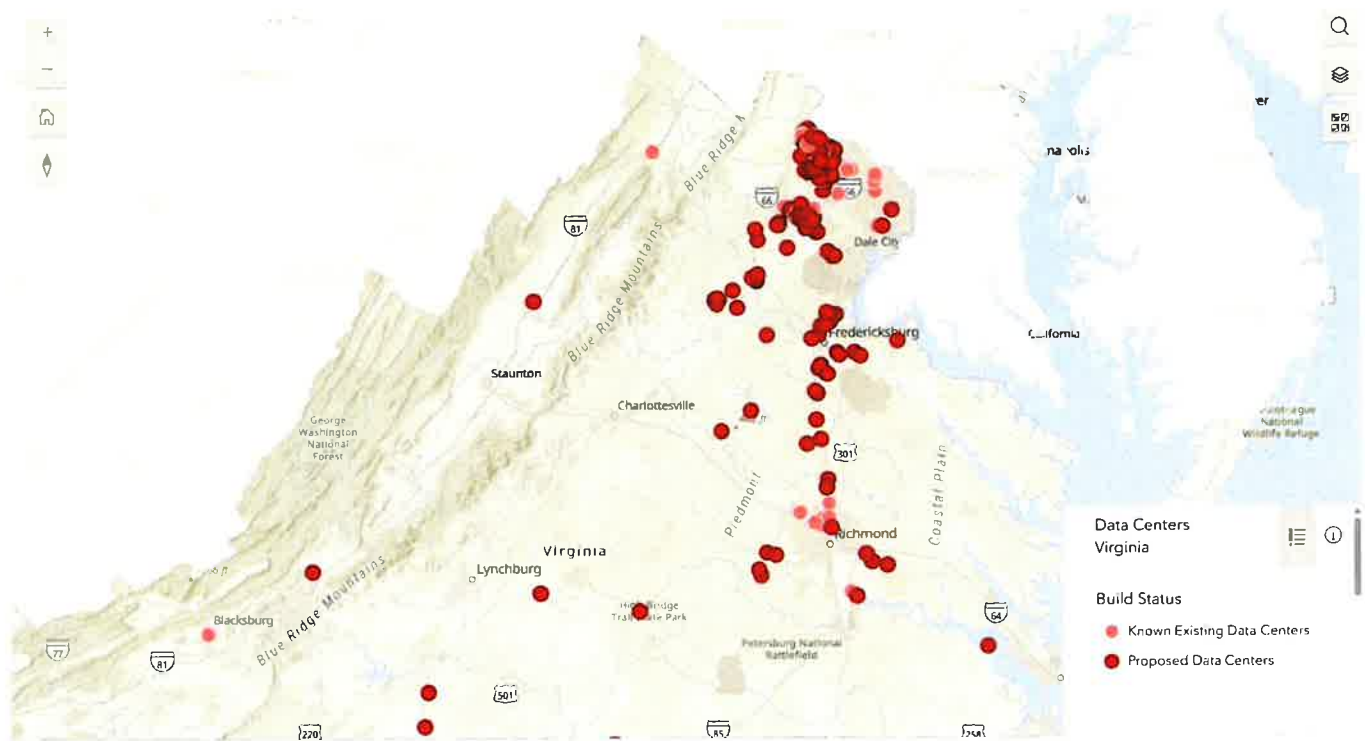
## Yes, Virginia, There Is a Data Clause

At that conference, Chris Miller, executive director of the **Piedmont Environmental Council**, explained how roughly two-thirds of the world's internet traffic passes through Northern Virginia. The region already hosts the densest concentration of data centers anywhere in the world, with about 300 facilities in just a handful of counties. Dozens more are planned or in development, ready to consume the region's available farmland, energy, and water, enticed by a statewide incentive that gives companies more than **\$130 million** in sales and use taxes each year.

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from local data centers in fiscal year 2025 to approach \$900 million, **nearly as much** as the county's entire operating budget. The proportion of revenue derived from data centers has grown so lopsided that the county's board of supervisors is considering **adjusting the tax rate**, so as not to be so reliant on a single source.



Existing and planned data centers in Northern Virginia. The state has been dubbed “the data center capital of the world.” Credit: Piedmont Environmental Council.

While many communities see data centers as an economic boon due to that tax revenue, the facilities themselves are not powerful long-term job engines. Most of the jobs they create are rooted in their construction, **not their ongoing operation**, and thus are largely temporary.

Decades ago, PEC supported some of the data center development in Northern Virginia, says Julie Bolthouse, PEC's director of land policy. But the industry has changed dramatically since then. When AOL had its headquarters in what's known as **Data Center Alley**, for example, the company's data center was a small part of a larger campus, “which had pedestrian trails around it, tennis courts, basketball

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isolated from the community now, and it is only going to employ about 100 to 150 people on the same piece of land. That's the difference."

The facilities have also gotten "massive," Bolthouse adds. "Each one of those buildings is using as much as a city's worth of power, so that power infrastructure is having a huge impact on our communities. All the transmission lines that have to be built, the eminent domain used to get the land for those transmission lines, all of the energy infrastructure, gas plants, pipelines that deliver the gas, the air pollution associated with that, the climate impacts of all of that."

Across Northern Virginia, on-site diesel generators—**thousands of them**, each the size of a rail car—spew diesel fumes, creating air quality issues. "No other land use that I know of uses as many generators as a data center does," Bolthouse says. And while such generators are officially classified as emergency backup power, data centers are permitted to run them for "demand response" for 50 hours at a time, she adds. "That's a lot of air pollution locally. That's particulate matter and NOx [**nitrogen oxides**], which impacts growing lungs of children, can add cases of asthma, and can exacerbate heart disease and other underlying diseases in the elderly."

And then there's the water issue.

### **'Like a Giant Soda Straw'**

A **study** by the Houston Advanced Research Center (HARC) and University of Houston found that data centers in Texas will use 49 billion gallons of water in 2025, and as much as 399 billion gallons in 2030. That would be equivalent to drawing down the largest reservoir in the US—157,000-acre Lake Mead—by **more than 16 feet** in a year.

Anyone who's accidentally left their phone out in the rain or dropped it in a puddle might wonder what a building full of expensive, delicate electronics could want with millions of gallons of water. It's largely for cooling purposes. Coursing with electrical

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What that means, however, is that the water isn't just used for cooling and then discharged as treatable wastewater; much of it evaporates in the process—*poof*.

“Even if they're using reclaimed or recycled water, that water is no longer going back into the base flow of the rivers and streams,” Bolthouse says. “That has ecological impacts as well as supply issues. Everybody is upstream from someone else.”

Washington, DC, for example, will still lose water supply if Northern Virginia data centers use recycled or reclaimed water, because that water won't make it back into the Potomac River. Evaporative cooling also leaves behind high concentrations of salts and other contaminants, she adds, creating water quality issues.

There are less water-intensive ways to cool data centers, including closed-loop water systems, which require more electricity, and **immersion cooling**, in which servers are submerged in a bath of liquid, such as a synthetic oil, that conducts heat but not electricity. Immersion cooling allows for a denser installation of servers as well, but is not yet widely used, largely due to cost.

Ironically, it can be hard to confirm specific data about data centers. Given the proprietary nature of AI technology and, perhaps, the potential for public backlash, many companies are **less than forthcoming** about how much water their data centers consume. Google, for its part, **reported** using more than 5 billion gallons of water across all its data centers in 2023, with 31 percent of its freshwater withdrawals coming from watersheds with medium or high water scarcity.

A 2023 **study** by the University of California Riverside estimated that an AI chat session of 20 or so queries uses up to a bottle of freshwater. That amount can vary depending on the platform, with more sophisticated models demanding larger volumes of water, while other estimates suggest it could be closer to a few spoonfuls per query.

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of water for a few queries, but it's all being taken from one basin where that data center is located—that's thousands and thousands of gallons of water being drawn from one place from people doing their AI queries from all over the world," he says.

"Wherever they choose to put a data center, it is like a giant soda straw sucking water out of that basin," Colohan continues. "And when you take water from a place, you have to reduce demand or put water back in that same place, there's no other solution. In some cases, at least, major data center developers have begun to recognize this problem and are actively engaging in [water replenishment](#) where it counts."

Locating data centers in cooler, wetter regions can help reduce the amount of water they use and the impact of their freshwater withdrawals. And yet roughly two-thirds of the data centers built since 2022 have been located in water-stressed regions, [according to a Bloomberg News analysis](#), including hot, dry climates like Arizona.



The warm water-cooling system at a Sandia Labs data center in Albuquerque, New Mexico. The data center earned LEED Gold certification for efficiency in 2020. Credit: Bret Latter/Sandia Labs via Flickr CC.

It's not just cooling the server rooms and chips that consumes water. About half of the electricity currently used by US data centers comes from fossil fuel power plants, which themselves use a lot of water, as they heat up steam to turn their massive turbines.

And the millions of microchips processing all that information? By the time they reach a data center, each chip has already consumed thousands of gallons of water. Manufacturing these tiny, powerful computing components requires "ultrapure" treated water to rinse off silicon residue without damaging the chips. It takes about 1.5 gallons of tap water to produce a gallon of ultrapure water, and the typical chip factory uses about 10 million gallons of ultrapure water each day, [according to the World Economic Forum](#)—as much as 33,000 US households.

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There could be important uses for artificial intelligence—if it can be harnessed to solve complex problems, for instance, or to improve the efficiency of water systems and electric grids.

There are clearly superfluous uses, too. A YouTube channel with 35 million subscribers, for example, features AI-generated music videos ... of AI-generated songs. The MIT Technology Review **estimates** that, unlike simple text queries, using AI to create video content is extremely resource-heavy: Making a five-second AI-generated video uses about as much electricity as running a microwave nonstop for over an hour.

Data center defenders tend to point to the fact that Americans use more water each year to irrigate golf courses (more than **500 billion gallons**) and lawns (over **2 trillion gallons**) than AI data centers use. However, that argument rings false: America has a well-documented addiction to green grass that is also not serving us well. The solution, water experts say, lies in water conservation and consumer education, not comparing one wasteful use to another.

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## Putting a Finite Resource First

Even a small data center can place an immense, concentrated burden on local infrastructure and natural resources. In Newton County, Georgia, a Meta data center that opened in 2018 **uses 500,000 gallons of water** per day—10 percent of the entire county's water consumption. And given Georgia's cheap power and generous state tax breaks, Newton County continues to field requests for new data center permits—some of which would use up to 6 million gallons of water per day, more than doubling what the entire county currently consumes.

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coordinated, holistic understanding of existing resources and potential impacts on the energy grid and the watershed, says Mary Ann Dickinson, policy director for land and water at the Lincoln Institute. “We would like to help communities make smarter decisions about data centers, helping them analyze and plan for the potential impacts to their community structures and systems.”

“Water is often one of the last things that gets thought about, so one of the things that we’re really promoting is early engagement,” says John Heron, strategic development manager at **Thames Water** in the UK. “So when you’re thinking about data centers, it’s not just about the speed you’re going to get, it’s not just about making sure there’s a lot of power available—we need to make sure that water is factored in at the earliest possible thinking ... at the forefront, rather than an afterthought.”

Despite its damp reputation, London doesn’t receive a whole lot of rainfall compared to the northern UK – **less than 25 inches a year**, on average, or roughly half of what falls in New York City. Yet because so much growth is centered on London, the Thames Water service area holds about 80 percent of the UK’s data centers, Heron says, and another 100 or so are proposed.

What’s more, their water usage peaks during the hottest, driest times of the year, when the utility can least accommodate the extra demand. “That’s why we talk about restricting or reducing or objecting to [data centers],” Heron says. “It’s not because we don’t like them. We absolutely get it, we need them ourselves. AI will massively help our call center ... which means we can have more people out fixing leaks and proactively managing our networks.”

## Keeping the Lights On

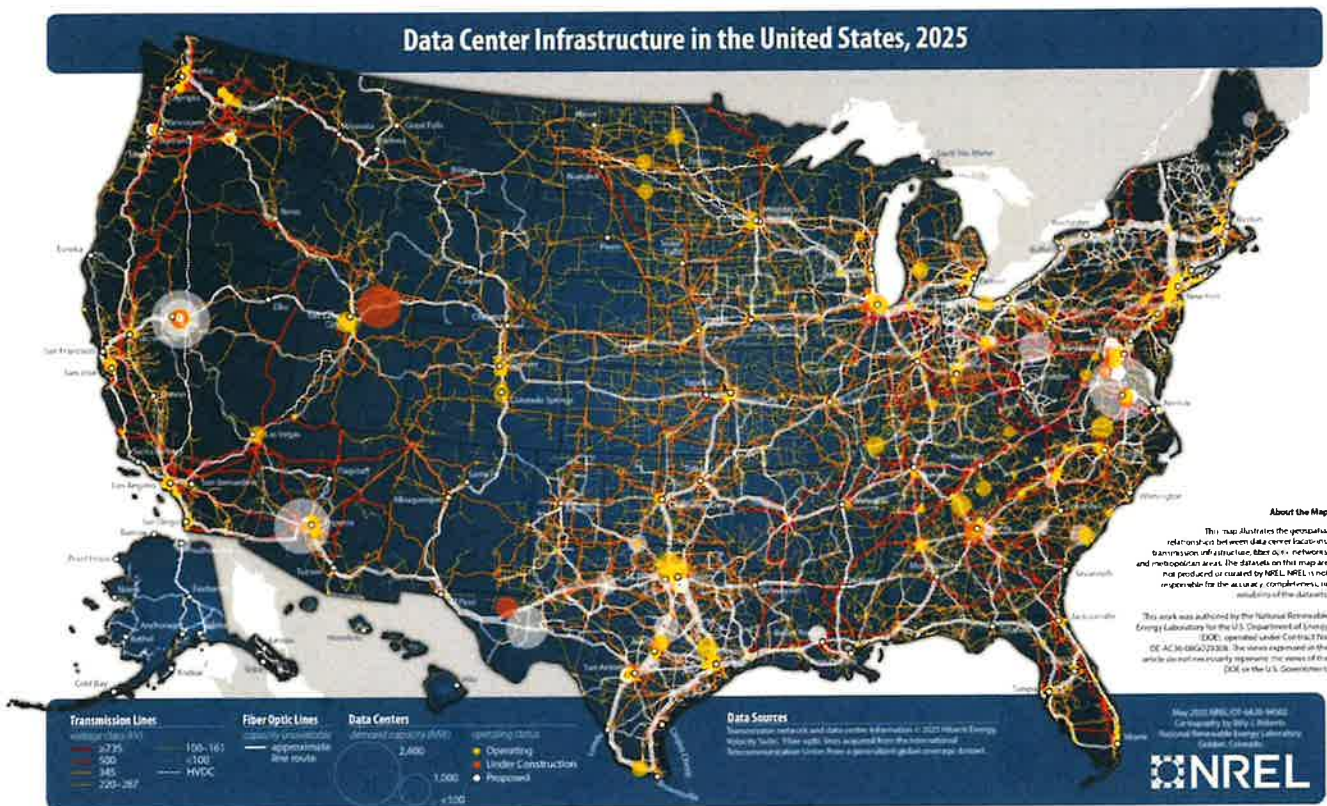
One way for data centers to use less water is to rely more heavily on air-cooling technology, but this requires more energy—which may in turn increase water use indirectly, depending on the power source. What’s more, regional grids are already

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associate professor of engineering at University of Southern California.

The government wants US technology companies to build their AI data centers domestically—not just for economic reasons, but for national security purposes as well. But even as the Trump administration appears to understand the enormous energy demands data centers will place on the electric grid, it has actively squashed new wind power projects, such as **Revolution Wind** off the coast of Rhode Island.



NREL (the National Renewable Energy Laboratory) created this overlay map of transmission lines and data center locations to “help visualize the overlap and simplify co-system planning.” Credit: NREL.gov.

Other carbon-free alternatives like small modular reactors (SMRs) and geothermal energy have bipartisan support, Sanders says. “But the problem is, even if you put shovels in the ground for an SMR today, it’s going to take 10 years,” she says. “The things that we can do the fastest are wind, solar, and batteries. But in the last six

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the grid soon, in some of these regions that are really congested.”

Data centers are among the reasons ratepayers nationwide have seen their electric bills increase at **twice the rate of inflation** in the past year. Part of that is the new infrastructure data centers will require, such as new power plants, transmission lines, or other investments. Those costs, as well as ongoing grid maintenance and upgrades, are typically shared by all electric customers in a service area, through charges added to utility bills.

This creates at least two issues: While the tax revenues of a new data center will benefit only the host community, the entire electric service area must pay for the associated infrastructure. Secondly, if a utility makes that huge investment, but the data center eventually closes or needs much less electricity than projected, it's the ratepayers who will foot the bill, not the data center.

Some tech companies are securing their own clean power independent of the grid—Microsoft, for example, signed a 20-year agreement to **purchase energy** directly from the Three Mile Island nuclear plant. But that approach isn't ideal either, Sanders says. “These data centers are still going to use transmission lines and all those grid assets, but if they're not buying the electricity from the utility, they're not paying for all that infrastructure through their rate bills,” she says.

Aside from generating new power, Sanders says, there are strategies to squeeze more capacity from the existing grid. “One is good old energy efficiency, and the data centers themselves have all of the incentives aligned to try to make their processes more efficient,” she says. AI itself could potentially also **help enhance** grid performance. “We can use artificial intelligence to give us more information about how power is flowing through the grid, and so we can optimize that power flow, which can give us more capacity than we would have otherwise,” Sanders says.

other strategy is to make the grid more flexible. Most of the time, and in most regions of the US, we only use about 40 percent of the grid's total capacity, Sanders

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flexibility and stabilize the grid during times of peak demand. In July, California's Pacific Gas and Electric Company (PG&E) conducted **the largest-ever test** of its statewide "virtual power plant," using residential batteries to supply 535 megawatts of power to the grid for two full hours at sundown.

With some intentional, coordinated planning—"it's not just going to happen naturally," Sanders says—it may be possible to add more capacity without requiring a lot of new generation if data centers can reduce their workloads during peak times and invest in large-scale battery backups: "There is a world in which these data centers can actually be good grid actors, where they can add more flexibility to the grid."

## Confronting Trade-Offs With Land Policy

As the demand for data centers grows, finding suitable locations for these facilities will force communities to confront myriad and imperfect trade-offs between water, energy, land, money, health, and climate. "Integrated land use planning, with sustainable land, water, and energy practices, is the only way we can sustainably achieve the virtuous circle needed to reap the benefits of AI and the economic growth associated with it," Colohan says.

For example, using natural gas to meet the anticipated electricity load of Texas data centers would require 50 times more water than using solar generation, according to the HARC **study**, and 1,000 times more water than wind. But while powering new data centers with wind farms would consume the least water, it would also require the most land—four times as much land as solar, and 42 times as much as natural gas.

Absent an avalanche of new, clean power, most data centers are adding copious amounts of greenhouse gases to our collective emissions, at a time when science demands we cut them sharply to limit the worst impacts of climate change. Louisiana regulators in August approved plans to **build three new gas power plants** to offset the expected electricity demand from Meta's Hyperion AI data center.

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more regionally, including to areas that won't see any new tax revenue.

That's one reason data center permitting needs more state oversight, Bolthouse says. "The only approval that they really have to get is from the locality, and the locality is not looking at the regional impacts," she says. PEC is also pushing for ratepayer protections and sustainability commitments. "We want to make sure we're encouraging the most efficient and sustainable practices within the industry, and that we're requiring mitigation when impacts can't be avoided."



Too close for comfort? A data center abuts homes in Loudoun County, Virginia. Credit: Hugh Kenny via Piedmont Environmental Council.

PEC and others are also pressing for greater transparency from the industry. "Very often, data centers are coming in with non-disclosure agreements," Bolthouse says.

They're hiding a lot of information about water usage, energy usage, air quality

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“We need communities to be educated about what they’re facing, and what their trade-offs are when they let in a data center,” Colohan says. “What is the cost—the true cost—of a data center? And then how do you turn that true cost into a benefit through integrated land policy?”

Rueben says she understands the desire, especially in communities experiencing population loss, to tap into a growing industry. But rather than competing with each other to attract data centers, she says, communities ought to be having broader conversations about job growth and economic development strategies, factoring in the true costs and trade-offs these facilities present, and asking the companies to provide more guarantees and detailed plans.

“Forcing data center operators to explain how they’re going to run the facility more efficiently, and where they’re going to get their water from—and not just assuming that they have first access to the water and energy systems,” she says, “is a shift in perspective that we kind of need government officials to make.”

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**Jon Gorey** is a staff writer at the Lincoln Institute of Land Policy.

*Lead image:* Data center facilities in Prince William County, Virginia. The county has 59 data centers in operation or under construction. *Credit:* Hugh Kenny via Piedmont Environmental Council.

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# EXHIBIT 11

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Posted on: December 12, 2025

## City of El Centro Addresses Community Questions Regarding Proposed Data Center

EL CENTRO, Calif. — Dec. 12, 2025 — The City of El Centro is aware of information circulating regarding a privately proposed data center north of the City and claims related to the use of reclaimed wastewater.



The City of El Centro wishes to clarify that no agreement of any kind has been entered into with any data center developer. The City has not received or approved an application, has not authorized the use of reclaimed or wastewater, and has not committed to constructing infrastructure to support such a project.

While the City proudly welcomes new businesses and economic opportunities that benefit our community, residents, and environment, no commitments or decisions have been made regarding any proposed data center. Any entity expressing interest in locating within El Centro or acquiring services from the City must undergo a formal, transparent, and thorough review process, which includes evaluating potential impacts on City services, infrastructure, natural resources, and overall community well-being.

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Separately, questions have been raised regarding potable water service. The City did receive a request for a conditional will-serve letter from the data center developer, which is a standard, informational tool commonly requested by developers and financial institutions to assess whether water service could potentially be available. A will-serve letter does not constitute a commitment to provide water or approval of a project, and in this case, was issued with clear conditions and additional safeguards stating that no commitments exist and that any future consideration would require formal studies, applications, environmental review, and public approval.

The City of El Centro remains committed to responsible, sustainable economic development that aligns with community values and long-term goals. Should a formal proposal be submitted, the City will ensure that residents are notified and fully informed as part of the public review and decision-making process.

We welcome interest from prospective businesses, but it is important to underscore that the City has not entered into any agreement or made any commitments related to a data center project.

For ongoing updates, residents are encouraged to follow official City communications, including our free Mass Notification System available at our website, [www.cityofelcentro.org](http://www.cityofelcentro.org).

[Press Release \(English\)](#)

[Press release \(Spanish\)](#)

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← [Previous](#)

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[Mayor Carter appointed to Cal  
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Committee](#)

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## Other News in City News

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[El Centro Library Director Carla Mason Appointed to Cal Cities Policy Committee](#)

Posted on: December 15, 2025



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[Mayor Carter appointed to Cal Cities Public Safety Policy Committee](#)



# EXHIBIT 12

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## Deficit Irrigation Program (DIP)

### Background

The Colorado River Basin has experienced the driest 24-year period in its historical record. Prolonged drought and low runoff conditions accelerated by climate change have led to historically low water levels in both Lake Powell and Lake Mead. In 2022, after determining the Colorado River would operate under Tier 2 drought conditions in 2023, the U.S. Department of the Interior committed to address the near-term drought crisis, historically low reservoir elevations and low runoff conditions by announcing its intent to modify the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead. Congress indicated its support for voluntary compensated water management and conservation actions by appropriating \$4 billion in funding specifically for the Colorado River Basin and other areas experiencing similar levels of drought, under the Inflation Reduction Act of 2022. In September 2022, Reclamation announced the creation of the Lower Colorado River Basin System Conservation and Efficiency Program (LC Conservation Program) to allocate some of this funding to Colorado River contractors to fund voluntary temporary conservation efforts. In November 2022, IID submitted a four-year LC Conservation Program 1.b proposal to Reclamation to expand the district's conservation efforts for four years, from 2023 through 2026, to create up to 1 million acre-feet of conservation, consistent with the Lower Basin proposal. IID and Reclamation agreed to separate IID's proposal into two parts, developing one System Conservation Implementation Agreement for calendar year 2023 and one SCIA for calendar years 2024 through 2026. The 2023 SCIA was executed on December 6, 2023, and resulted in the creation of 106,111 acre-feet of System Conservation Water from IID's On-Farm Efficiency Conservation Program, funded by the LC Conservation Program. On August 12, 2024 IID executed the 2024 – 2026 SCIA to fund the creation of up to 300,000 acre-feet per year of System Conservation Water to be left in Lake Mead, with a cumulative total of up to 700,000 acre-feet of conservation during those three years.

In 2024, IID implemented a truncated Deficit Irrigation Program from August 13 – September 30, 2024. This shortened program involved 154,145 acres of Alfalfa, Bermuda grass and Klein grass that were not irrigated for a 49 to 60-day period, yielding 172,266 AF of conservation at-River with conservation payments of nearly \$50 million to participants. A summary of the 2024 DIP is posted below.

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# 2025 Deficit Irrigation Program

The Deficit Irrigation Program (DIP) incentivizes deficit irrigation practices to be performed on a voluntary basis by farmers on land that is cultivating either Alfalfa, Bermuda grass, or Klein grass in order to reduce IID’s consumptive use of Colorado River water and create System Conservation Water. Eligible fields must be at least 20 acres and have been cultivating Alfalfa, Bermuda grass or Klein grass prior to January 1, 2024. Participants will be allowed to select a 45-day or 60-day deficit irrigation term between the beginning of June and the end of September. During the 45 to 60-day deficit irrigation period, IID will physically lock the delivery gate and institute electronic locks to prevent water from being ordered for participating fields. Conservation yields will be based off the average historical water use recorded for Alfalfa, Bermuda grass, and Klein grass in the Imperial Valley during similar time periods, and IID will remove the final conservation volume from the participant’s annual farm unit water apportionment account. Landowner signatures will be required on DIP. The DIP conservation payment rate for 2025 is \$300/AF, and additional DIP details are included in the updated project description below.

2025 DEFICIT IRRIGATION PROGRAM SCHEDULE*	
DIP Participation Solicitation Period Opens	February 19, 2025
DIP Participation Solicitation Period Ends	<b>March 15, 2025 at 5:00 p.m.</b>
Initiation of USFWS/CDFW coordination efforts	March 17, 2025
DIP Contracting Begins* (estimate)	May 2025
Implementation Period	June 1, 2025 - September 30, 2025

\*Contingent upon federal funding.

## 2025 Deficit Irrigation Program Conservation Rates

60-DAY DEFICIT IRRIGATION PERIOD CONSERVATION RATES			
START DATE	ALFALFA (AF/AC)	BERMUDA GRASS (AF/AC)	KLEIN GRASS (AF/AC)
6/1/2025 - 6/7/2025	1.67	1.45	1.79
6/8/2025 - 6/14/2025	1.65	1.42	1.78
6/15/2025 - 6/21/2025	1.62	1.40	1.78
6/22/2025 - 6/28/2025	1.60	1.38	1.77
6/29/2025 - 7/5/2025	1.57	1.36	1.77
7/6/2025 - 7/12/2025	1.50	1.39	1.74
7/13/2025 - 7/19/2025	1.43	1.43	1.71
7/20/2025 - 7/26/2025	1.36	1.46	1.68

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<b>60-DAY DEFICIT IRRIGATION PERIOD CONSERVATION RATES</b>			
<b>START DATE</b>	<b>ALFALFA (AF/AC)</b>	<b>BERMUDA GRASS (AF/AC)</b>	<b>KLEIN GRASS (AF/AC)</b>
7/27/2025 - 8/2/2025	1.28	1.49	1.66
<b>45-DAY DEFICIT IRRIGATION PERIOD CONSERVATION RATES</b>			
<b>START DATE</b>	<b>ALFALFA (AF/AC)</b>	<b>BERMUDA GRASS (AF/AC)</b>	<b>KLEIN GRASS (AF/AC)</b>
6/1/2025 - 6/7/2025	1.35	0.90	1.40
6/8/2025 - 6/14/2025	1.33	0.88	1.39
6/15/2025 - 6/21/2025	1.29	0.92	1.40
6/22/2025 - 6/28/2025	1.24	1.00	1.42
6/29/2025 - 7/5/2025	1.17	1.08	1.41
7/6/2025 - 7/12/2025	1.10	1.14	1.41
7/13/2025 - 7/19/2025	1.04	1.18	1.39
7/20/2025 - 7/26/2025	0.98	1.20	1.37
7/27/2025 - 8/2/2025	0.93	1.18	1.37
8/3/2025 - 8/9/2025	0.93	1.10	1.35
8/10/2025 - 8/17/2025	0.91	1.09	1.30

The generic 2025 DIP application package is posted below. More detailed Farm Unit application packages are available upon request and include a list of all fields within a farm unit that meet the eligibility requirements for the 2025 DIP. Please email [deficitirrigation@iid.com](mailto:deficitirrigation@iid.com) to request a Farm Unit Application package and include the Farm Unit name that you are requesting as it appears on the water card.

There is currently some level of uncertainty as to the status of all federal funding as a result of the transition to a new administration. Contracting for the 2025 DIP is contingent upon a continuation of federal funding. IID is working to advocate for this contracted funding and to obtain additional federal assurances for the balance of outstanding (2024) and anticipated (2025-2026) system conservation payments under its 2024-2026 SCIA.

Additional questions regarding the DIP should be directed to (760) 339-9256 or by email to [deficitirrigation@iid.com](mailto:deficitirrigation@iid.com), your patience is appreciated as we respond to inquiries in the order they are received.

For information regarding the current DIP solicitation and a program description, forms, and sample contracts, please click on the links below.

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<b>DOWNLOAD / VIEW</b>
<a href="#">Final May 2025 DIP Program Description</a> [PDF]
<a href="#">Final May 2025 DIP Contract Template</a> [PDF]
<a href="#">2025 DIP Lottery Excluded Fields 5-22-2025</a> [PDF]
<a href="#">2025 DIP Application</a> [PDF]
<a href="#">2025 DIP Application</a> [XLS]
<b>DIP PARTICIPATION SUMMARY</b>
<a href="#">2025 Deficit Irrigation Program Payments</a> [PDF]
<a href="#">2025 DIP Report</a> [PDF]
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December 17, 2025

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**Re: Agenda Item III.2 Consideration of Lot Merger #00191 for  
Imperial Valley Computer Manufacturing (BP#63316, Initial Study  
#25-0041, Design Review #25-006)**

Dear Chair Schaffner, Vice Chair Kalin, Commissioners Roben, Medina, Gallegos,  
Wright, Cabanas, Hinojosa, and Dunn, Mr. Valenzuela, Mr. Minnick:

On behalf of Citizens for Responsible Industry (“Citizens”), we submit these  
comments on the Imperial County (“County”) Planning Commission (“Commission”)  
Agenda Item III.2, the proposed Consideration of Lot Merger #00191 (“Lot Merger”)  
as submitted by Imperial Valley Computer Manufacturing, LLC (“Applicant”). The  
Applicant proposes a Lot Merger to consolidate five parcels and Leimgruber Road  
into a single 75.39-acre site for the future construction and development of a Data  
Center Complex (“Project” or “Data Center”).<sup>1</sup> The Project site is located at 2304

<sup>1</sup> Imperial County, Staff Report, Planning Commission Meeting, December 18, 2025, Lot Merger  
(MERG) #00191, available at: <https://www.icpds.com/assets/hearings/2.-merg00191-imperial-valley-computer-manufacturing-llc-hearing-pkg..pdf>.

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Clark Road, Imperial, CA 92251, on property identified as Assessor's Parcel Numbers ("APN") 044-220-007, 044-220-042, 044-220-044, 044-220-045, and 044-220-046.<sup>2</sup> The Project is within the M-1-U (Light Industrial, Urban), M-2-U (Medium Industrial, Urban) and A-2-U (General Agricultural, Urban). Parcel 044-220-042 and 044-220-044 are zone M2-U Medium Industrial, Urban. Parcel 44-220-007 and 044-220-006 are zoned A-2-U as General Agricultural, Urban. Parcel 044-220-046 is zoned M-1-N-U. The Project site is within 200 feet of nearby residences to the west along Gaebrial Court, Evren Court, Josh Court, Taylor Drive, and Samantha Court, Imperial CA 92251.<sup>3</sup>

The Lot Merger is part of a larger Project proposed by the Applicant to construct a 950,000 square foot Data Center for the processing of artificial intelligence and machine learning designed to support large-scale model training and computational workloads.<sup>4</sup> The Project also includes a proposed 330 megawatt ("MW") substation, an 862 MWh battery energy storage system ("BESS") for short-duration power continuity, including 220 Tesla Megapack 2XL on 164,500 square feet of unenclosed concrete floor, and emergency power generation through 132 Caterpillar G3520 Natural Generators.<sup>5</sup> Electricity will be supplied from Imperial Irrigation District ("IID") and will arrive at the Data Center from the 230kV S-Line and 92kV R-Line which would be stepped down by the on-site 330 MW Substation.<sup>6</sup> Finally, the Project would convert reclaimed water from the City of Imperial at a proposed onsite wastewater treatment plant, and would include a 6-acre retention basin and four 500,000 gallon water tanks.

The County claims that the Lot Merger is categorically exempt from environmental review under the California Environmental Quality Act ("CEQA")<sup>7</sup> pursuant to CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations) and has not prepared an initial study or environmental impact report ("EIR") for the Data Center Project. The County's approach is a clear violation of CEQA, which requires the County to analyze the "whole of the project" in a single environmental review document.<sup>8</sup> Agencies are not permitted to avoid

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<sup>2</sup> *Ibid.*

<sup>3</sup> County of Imperial CA, Imperial Valley Data Center Campus, Title Sheet Site Plan, available at: <https://drive.google.com/file/d/1P6r9x780sowkfWXdua2tF2hey4LXF4Ab/view>; Google Maps 2025.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> Public Resources Code ("PRC") § 21100 et seq.

<sup>8</sup> 14 Cal. Code Regs. ("CCR") § 15378(a); *Habitat & Watershed Caretakers v. City of Santa Cruz* (2013) 213 Cal.App.4th 1277, 1297,

8120-005

December 17, 2025

Page 3

environmental review by chopping up a project into small pieces,<sup>9</sup> and a CEQA exemption cannot be applied to only a portion of a project.<sup>10</sup> The County is defying these clear legal mandates by proposing segmented approval of the Lot Merger from the rest of the Project.

The Lot Merger is not the Applicant's first step towards implementing the Project. On November 3, 2025, the County approved a grading permit for the Project (Grading Permit BP#63316-Initial Study #25-0041) and issued a related CEQA Notice of Exemption.<sup>11</sup> The Notice of Exemption claimed that the grading permit was subject to a ministerial CEQA exemption under CEQA Section 21080(b)(1) and CEQA Guidelines Section 15268.<sup>12</sup> However, the Notice clearly explained that the grading permit was part of the larger Data Center Project: "[t]he Applicant proposes Grading Permit BP#63316 to implement appropriate grading measures within the project area for the future development of a Data Center Complex. The proposed grading will provide adequate site drainage, soil stabilization, and surface preparation ensuring that the site is properly conditioned to support the pending structural building permits and subsequent construction of the Data Center Complex."<sup>13</sup> The County is therefore engaging in separate, piecemealed approvals of the Project's individual entitlements, in violation of CEQA and without considering the major environmental and public health impacts that construction and operation of the Data Center Project will have on the County and its constituents.

Other public agencies have questioned the County's piecemealed approach to approving the Data Center. On December 4, 2025, the City of Imperial filed a lawsuit challenging the County's issuance of the grading permit and CEQA exemption.<sup>14</sup> The City's lawsuit is currently pending in Imperial County Superior Court. State lawmakers have also questioned whether the County's decision to exempt the Data Center Project comports with CEQA or the public interest, explaining that "CEQA provides a valuable tool for the local community to be informed on the environmental impacts of planned developments" and noting that

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<sup>9</sup> *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 284.

<sup>10</sup> *Association for a Cleaner Environment v. Yosemite Community College Dist.* ("ACE v. Yosemite") (2004) 116 Cal.App.4th 629, 640.

<sup>11</sup> County of Imperial, Notice of Exemption, Grading Permit BP#63316 (Initial Study #25-0041) (Nov. 6, 2025, available at: <https://www.icpds.com/assets/noe---grading--permit-63316---initial-study--25-0041-web-11-6-2025.pdf>).

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*

<sup>14</sup> *City of Imperial v. County of Imperial*, Imperial Super. Ct. Case No. ECU004457 (Case Filed 12/4/2024). The writ petition is attached hereto.

8120-005

PC ORIGINAL PKG

December 17, 2025

Page 4

environmental review of the Project is critical “given the well documented negative impacts data centers have had in other parts of the nation.”<sup>15</sup> The Applicant’s response acknowledges the County’s piecemealed approval of the Data Center Project, yet incorrectly asserts that the County is not required to comply with CEQA.<sup>16</sup>

As explained herein, neither the Lot Merger nor the Data Center Project are exempt from CEQA, and an EIR must be prepared, for the following reasons:

- 1) The Lot Merger is part of the larger Data Center Project and must be analyzed in a single EIR for the Project.
- 2) The Lot Merger is not categorically exempt from CEQA under CEQA Guidelines Section 15305 because it does not meet the facial requirements for the exemption. The Lot Merger would result in a change in land use from agricultural zoning to light industrial zoning, from agricultural use to data center use, and from the abandonment of Leimgruber Road.
- 3) The Project is not subject to exemption as advanced manufacturing under Public Resources Code Section 21080.69 (SB 131) because the Project site is not zoned exclusively for industrial use and the record does not demonstrate that the Project is a qualifying use.
- 4) The Project is subject to exceptions from the exemptions because a portion of the Project site is on the State Water Resources Control Board’s (“Water Board”) Cortese List of California hazardous waste sites (“Cortese List”).
- 5) The Project results in significant environmental impacts which must be analyzed in an EIR in accordance with CEQA.
- 6) The Lot Merger would violate the Zoning Code because it would result in a de facto rezoning of the Project site, and the parcels are not contiguous, being separated by Leimgruber Road.

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<sup>15</sup> Letter from Senator S. Padilla to Imperial County Board of Supervisors regarding data center application (12/1/2025), available at [https://sd18.senate.ca.gov/sites/sd18.senate.ca.gov/files/pdf/Imperial.County.CEQA\\_Inquiry%20-%2012.1.25.pdf](https://sd18.senate.ca.gov/sites/sd18.senate.ca.gov/files/pdf/Imperial.County.CEQA_Inquiry%20-%2012.1.25.pdf) (last visited 12/17/2025).

<sup>16</sup> Letter from Applicant Senator S. Padilla re Response to Letter to Imperial County Regarding 330 MW Data Center Campus (12/4/2025), attached hereto.  
8120-005

December 17, 2025

Page 5

The County cannot approve the Project until it complies with CEQA, the Zoning Code, and all applicable land use laws to ensure that the Project proceeds safely and mitigates its significant environmental and public health impacts. Citizens respectfully requests that the Planning Commission postpone this hearing and remand the Project to Staff to prepare an EIR which discloses and mitigates the Project's significant environmental and public health impacts, and addresses the Project's and nonconformance with the Zoning Code.

Citizens' comments on hazardous waste, air quality, health risk, and greenhouse gas ("GHG") impacts were prepared with the assistance of air quality and hazards consultant Dr. James Clark, Ph.D. of Clark & Associates. Dr. Clark's comments and curriculum vitae are attached hereto.<sup>17</sup> We reserve the right to supplement these comments at a later date and at any future proceedings related to this Project.<sup>18</sup>

## I. PROJECT BACKGROUND

On August 1, 2025, the Applicant submitted an Initial Design Review submittal for the proposed 950,000-square-foot Artificial Intelligence ("AI") Data Center Campus.<sup>19</sup> The Project also includes a proposed 330 MW substation, an 862 MWh BESS for short-duration power continuity, including 220 Tesla Megapack 2XL on 164,500 square feet of unenclosed concrete floor, and emergency power generation through 132 Caterpillar G3520 Natural Generators.<sup>20</sup> Electricity will be supplied from IID and will arrive at the Data Center from the 230kV S-Line and 92kV R-Line which would be stepped down by the on-site 330 MW Substation.<sup>21</sup> Finally, the Project would convert reclaimed water from the City of Imperial at a proposed onsite wastewater treatment plant, and would include a 6-acre retention basin and four 500,000 gallon water tanks

The Project would be located across five existing parcels zoned M-1-N-U (Light Industrial, No Residential within Urban Boundaries), M-2-U (Medium Industrial within Urban Boundaries), and A-2-U (General Agricultural within

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<sup>17</sup> **Exhibit A:** Letter from Dr. James Clark to Adams Broadwell Joseph & Cardozo ("ABJC"), Comments on Imperial Valley Data Center (Dec. 16, 2025) ("**Clark Comments**").

<sup>18</sup> Gov. Code § 65009(b); PRC § 21177(a); *Bakersfield Citizens for Local Control v. Bakersfield ("Bakersfield")* (2004) 124 Cal. App. 4th 1184, 1199-1203; see *Galante Vineyards v. Monterey Water Dist.* (1997) 60 Cal. App. 4th 1109, 1121.

<sup>19</sup> Exhibit D – Letter from Jim Minnick, Director Imperial County Planning & Development Services to Sebastian Rucci Imperial Valley Computer Manufacturing, LLC, DESIGN REVIEW #25-0006; 291 WEST ATEN ROAD, IMPERIAL, CA 92251 APN: 044-220-046-000 (Sept. 4, 2025).

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*  
8120-005

Urban Boundaries).<sup>22</sup> On November 6, 2025, the Planning Director provided the Applicant a letter stating that the “proposed project layout spans multiple existing parcels and crosses the boundaries of three zoning areas. **As currently designed, some of the identified uses in the layout are not fully consistent with building code requirements related to construction across property lines...** You may revise the site layout to ensure that each structure is located entirely within a specific parcel where such use is permitted. This would bring the project into compliance with existing building codes and zoning regulations.”<sup>23</sup>

**The Project is not consistent with existing building codes or zoning regulations.** The Director’s letter further explains that “Should you wish to maintain the existing layout as depicted in the submitted site plan, you would need to submit a Lot Merger and Lot Line Adjustment applications. Merging the parcels and reconfiguring exiting boundary limits would allow the project to be considered as a unified development site. These actions are necessary to consolidate all four (4) parcels comprising the AI Data Center Campus into a single, unified lot, while also dedicating a separate lot on the southern portion of the project site to accommodate the utility substation, which is intended to be conveyed to the Imperial Irrigation District. Attached, please find copies of the Lot Merger and Lot Line Adjustment applications for your reference.”<sup>24</sup> The record before the Planning Commission does not include a Lot Line Adjustment. A determination on a Lot Line Adjustment must be made by the Planning Director at a noticed public hearing pursuant to Imperial County Code Section 90807.04.

The County has nevertheless proceeded with piecemealed approval of permits required for the Project. On November 3, 2025, the County issued a Notice of Exemption for Grading Permit BP#63316 (Initial Study #25-0041).<sup>25</sup> The Notice of Exemption explains that the grading permit is intended to facilitate the Data Center Project: “[t]he Applicant proposes Grading Permit BP#63316 to implement appropriate grading measures within the project area for the future development of a Data Center Complex. The proposed grading will provide adequate site drainage, soil stabilization, and surface preparation ensuring that the site is properly conditioned to support the pending structural building permits and subsequent construction of the Data Center Complex.”<sup>26</sup> The County issued the Grading Permit

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<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> *Ibid.* at 2.

<sup>25</sup> County of Imperial, Notice of Exemption, Grading Permit BP#63316 (Initial Study #25-0041) (Nov. 6, 2025, available at: <https://www.icpds.com/assets/noe---grading--permit-63316---initial-study--25-0041-web-11-6-2025.pdf>).

<sup>26</sup> *Ibid.*

subject to a ministerial CEQA exemption under CEQA Section 21080(b)(1) and CEQA Guidelines Section 15268.<sup>27</sup>

The Staff Report explains that a road abandonment is also necessary to facilitate the Project and approve the Lot Merger: “[u]pon approval of a Road Abandonment application for Leimgruber Road by the Imperial County Board of Supervisors, Lot Merger #00191 will be consistent with the provisions of the Imperial County Land Use Ordinance...”<sup>28</sup> However, the Planner confirmed that the County has not yet received a road abandonment application for Leimgruber Road.<sup>29</sup> Given that the lots and parcels are not contiguous and the lots are separated by Leimgruber Road, the proposed Lot Merger is not consistent with County Code requirements. The County is therefore required to deny the Lot Merger.

## II. STATEMENT OF INTEREST

Citizens is a coalition of individuals and labor organizations with members who may be adversely affected by the potential public and worker health and safety hazards and environmental and public service impacts of the Project. The coalition includes local residents, California Unions for Reliable Energy (“CURE”) and its local affiliates, and the affiliates’ members who live, recreate, work, and raise families in Imperial County and in communities near the Project site. Citizens, its participating organizations, and their members stand to be directly affected by the Project’s impacts.

Since its founding in 1997, CURE has been committed to building a strong economy and healthier environment and it works to construct, operate, and maintain conventional and renewable energy power plants and other industrial facilities throughout California. CURE supports the development of clean energy and technology industries where properly analyzed and carefully planned to minimize impacts on public health and the environment. Industrial projects should avoid adverse impacts to natural resources and public health, and should take all feasible steps to ensure that unavoidable impacts are mitigated to the greatest extent feasible. Only by maintaining the highest standards can new development truly be sustainable.

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<sup>27</sup> *Ibid.*

<sup>28</sup> Staff Report, p. 2.

<sup>29</sup> Exhibit B – Email from Luis Valenzuela Planner II Imperial County Planning & Development Services Dept. to Rachel L. Levine Adams Broadwell Joseph & Cardozo (“ABJC”) on behalf of CURE  
Re: MERG#00191 Inquiry (Tue 12/16/2025 9:38 AM).  
8120-005

The individual members of Citizens, and the members of its affiliated labor organizations, would be directly affected by the Project and may also work constructing the Project itself. They would therefore be first in line to be exposed to any health and safety hazards that may be present on the Project site. They each have a personal stake in protecting the Project area from unnecessary, adverse environmental and public health and safety impacts.

Citizens supports and encourages the sustainable development of California's energy and natural resources and has an interest in enforcing environmental laws that encourage sustainable development and a safe working environment. Environmentally detrimental projects can jeopardize future jobs by making it more difficult and more expensive for business and industry to expand in the region, and by making it less desirable for businesses to locate and people to live and recreate in the County. Continued degradation can, and has, caused construction moratoriums and other restrictions on growth that, in turn, reduces future employment opportunities.

Finally, the organizational members of Citizens are concerned with projects that can result in serious environmental harm without providing countervailing economic benefits. CEQA provides a balancing process whereby economic benefits are weighed against significant impacts to the environment. It is in this spirit we offer these comments.

### **III. THE COUNTY IS ILLEGALLY PIECEMEALING THE PROJECT'S ENVIRONMENTAL REVIEW AND APPROVALS**

CEQA mandates review of the "whole of the action" that may result in a physical change to the environment.<sup>30</sup> The term "project" refers to the activity for which approval is sought, not to each separate governmental approval that may be required for the activity to occur.<sup>31</sup> Under this definition of a project, the lead agency must describe the project to encompass the entirety of the activity that is proposed for approval. This ensures that all potential impacts of the proposed project will be examined before it is approved.<sup>32</sup>

CEQA requires the preparation of a single EIR for a series of actions that constitute a single, larger project<sup>33</sup> and prohibits dividing a project into smaller

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<sup>30</sup> 14 Cal Code Regs §15378(a).

<sup>31</sup> 14 Cal Code Regs §15378(c).

<sup>32</sup> 14 Cal Code Regs §15378(a), (d).

<sup>33</sup> 14 CCR §§15165, 15168, 15378.

December 17, 2025

Page 9

individual subprojects and entitlements to qualify for exemptions and avoid responsibility for considering the environmental impacts of the project as a whole.<sup>34</sup> In *Laurel Heights Improvement Ass'n v Regents of Univ. of Cal.*,<sup>35</sup> the California Supreme Court held that an EIR must analyze the environmental effects of a future expansion or action if “(1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.” Piecemeal environmental review that ignores the environmental impacts of the end result is prohibited by CEQA.<sup>36</sup> Agencies engage in improper piecemeal environmental review when the “purpose of the reviewed project is to be the first step toward future development” or when “the reviewed project legally compels or practically presumes completion of another action.”<sup>37</sup>

Here, the County has been aware of the Applicant’s proposal to construct the Data Center Project from the earliest phases, yet continues to approve (grading permit) and propose approval (Lot Merger) of separate pieces of the Project one permit at a time. This is a clear violation of CEQA. The entire Data Center Project must be analyzed as a single “project” in accordance with CEQA.

The courts have explained that, although a project may go through several approval stages, the environmental review accompanying the first discretionary approval must evaluate the impacts of the ultimate development authorized by that approval. This prevents agencies from chopping a large project into little ones, each with a minimal impact on the environment, to avoid full environmental disclosure.<sup>38</sup> The County failed to analyze the ultimate development of the entire Data Center Project, by issuing multiple smaller approvals in furtherance of the same Project without preparing a CEQA initial study or EIR for the Project.

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<sup>34</sup> PRC § § 21159.27; *Orinda Ass'n v Board of Supervisors* (1986) 182 CA3d 1145, 1171.

<sup>35</sup> (1988) 47 C3d 376, 396.

<sup>36</sup> See *Christward Ministry v Superior Court* (1986) 184 CA3d 180, 193 (EIR should have been required for general plan amendment designating existing landfill site to permit various waste-disposal activities even though EIR would be required later if use permits were actually sought for such activities); *City of Carmel-by-the-Sea v Board of Supervisors* (1986) 183 CA3d 229, 251 (County violated CEQA by preparing negative declaration for rezoning and reserving preparation of EIR until later stage of approval); *Citizens Ass'n for Sensible Dev. v County of Inyo* (1985) 172 CA3d 151, 167 (County improperly prepared negative declaration for general plan amendment and rezoning for proposed shopping center followed by later negative declaration for subdivision map and road abandonment for same project, because, by bifurcating review, County failed to examine potential impacts of entire development).

<sup>37</sup> *Banning Ranch Conservancy v City of Newport Beach* (2012) 211 CA4th 1209, 1223.

<sup>38</sup> See 14 Cal Code Regs § 15003(h); *Bozung v LAFCO* (1975) 13 C3d 263, 283. See also [\*California Unions for Reliable Energy v Mojave Desert Air Quality Mgmt. Dist.\* \(2009\) 178 CA4th 1225, 1249.](#)

Recent correspondence with the County confirms that the County has not prepared a CEQA initial study for the Project, a required step towards CEQA compliance. The Notice of Exemption for the grading permit stated that the County approved “Initial Study #25-0041.” However, when Citizens’ counsel requested a copy of Initial Study #25-0041,<sup>39</sup> County Counsel confirmed that no Initial Study had been prepared for the Grading Permit.<sup>40</sup> They explained that that “Initial Study #25-0041 is just an internal name that our planning department uses but there are no documents.”<sup>41</sup> As such, no CEQA initial study was prepared to analyze the grading permit or any other phases of Project planning, implementation, and operation, as required by CEQA.<sup>42</sup>

Approving the Lot Merger without preparing an initial study and CEQA document for the Data Center Project would be another legal misstep in the County’s impermissible piecemealing of the Project. The Planning Commission should place the Project’s approval process on hold until the County prepares an EIR for the Data Center Project.

#### IV. THE PROJECT IS NOT EXEMPT FROM CEQA

Only projects having no significant effect on the environment are categorically exempt from CEQA review.<sup>43</sup> To rely on an exemption, a lead agency must provide “substantial evidence to support [their] finding that the Project will not have a significant effect.”<sup>44</sup> Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency.<sup>45</sup> If an activity may have a significant effect on the environment, the activity is not categorically exempt from CEQA, CEQA review must occur, and only then are mitigation measures relevant.<sup>46</sup>

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<sup>39</sup> County of Imperial, Notice of Exemption, Grading Permit BP#63316 (Initial Study #25-0041) (Nov. 6, 2025, available at: <https://www.icpds.com/assets/noe---grading--permit-63316---initial-study--25-0041-web-11-6-2025.pdf>).

<sup>40</sup> Exhibit C - Email from Jose Luis Fuentes, Imperial County Counsel to Rachel Levine, ABJC re 11/7/2025 Request for Immediate Access to Imperial Valley Computer Manufacturing, LLC (Nov. 13, 2025 4:51 PM).

<sup>41</sup> *Ibid.*

<sup>42</sup> 14 Cal. Code Regs §15063(a)(1).

<sup>43</sup> Pub. Res. Code §§ 21080(b)(9); 21084(a).

<sup>44</sup> *Banker’s Hill, Hillcrest, Park West Community Preservation Group v. City of San Diego* (2006) 139 Cal.App.4th 249, 269.

<sup>45</sup> 14 C.C.R. § 15384.

<sup>46</sup> *SPAWN*, 125 Cal.App.4th at 1107.  
8120-005

An agency may not rely on a categorical exemption if mitigation measures would be necessary to reduce potentially significant effects to less than significant levels.<sup>47</sup>

The County's reliance on a Class 5 categorical exemption is unsupported because the Project is facially inconsistent with the exemption's requirements. The Project is also subject to exceptions to categorical exemptions because of its presence on the Cortese list of contaminated sites. Finally, the County lacks substantial evidence to support any CEQA exemption because the Project has significant impacts which require mitigation. Substantial evidence from Citizens' experts and other commenters demonstrates that the Project has, *inter alia*, significant air quality, hazards, and public health impacts which require analysis and enforceable mitigation.

**A. The Lot Merger is Not Exempt from CEQA Pursuant to Section 15305 (Minor Alterations in Land Use Limitations)**

The Staff Report asserts that the Project is not subject to further CEQA review because the lot merger is categorically exempt from CEQA pursuant to CEQA Guidelines Section 15305 (Minor Alterations in Land Use Limitations).<sup>48</sup> The Staff Report includes no evidentiary support for the conclusion that the Project is categorically exempt from CEQA pursuant to Section 15305. To the contrary, the Project is facially inconsistent with the facial requirements for the exemption, rendering the exemption inapplicable.

The CEQA Guidelines provide that Class 5 consists of minor alterations in land use limitations in areas with an average slope of less than 20%, ***which do not result in any changes in land use*** or density, including but not limited to:

- (a) Minor lot line adjustments, side yard, and set back variances not resulting in the creation of any new parcel;
- (b) Issuance of minor encroachment permits;
- (c) Reversion to acreage in accordance with the Subdivision Map Act.<sup>49</sup>

The Project is not subject to this exemption because the Project proposes to change Parcels 44-220-007 and 044-220-006 from agricultural zoning (A-2-U) to light industrial (M-1-U). The change from A-2-U to M-1-U results in a change in land use because data centers are not a permitted use on A-2-U zoned land

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<sup>47</sup> *SPAWN*, 125 Cal.App.4th at 1102; *Azusa Land Recl. Co.*, 52 Cal. App.4th at 1198-1201.

<sup>48</sup> Staff Report, p. 1.

<sup>49</sup> CEQA Guidelines § 15305.  
8120-005

pursuant to Imperial County Code Section 90508.01. Data centers are not permitted on A-2-U zoned land even with a Conditional Use Permit pursuant to Imperial County Code Section 90508.02. The County Code provides that “All other uses not expressly permitted by Section 90508.01 or 90508.02 are prohibited.”<sup>50</sup> The abandonment of Weingruber Road also results in a change in land use from a road to a data center complex.

The merger of the Project site from 5 noncontiguous parcels of different land uses and abandonment of the road, results in a change in land use, in violation of CEQA Guidelines Section 15305, such that the Lot Merger is not categorically exempt from CEQA.

### **B. The Project Does Not Qualify for an Exemption under Public Resources Code Section 21080.69**

The Project’s Site Plan asserts that Public Resources Code Section 21080.69(a)(4) (SB 131) exempts the Project from CEQA review as a “project[] that consists exclusively of a facility for advanced manufacturing, as defined in Section 26003, if the project is located on a site zoned exclusively for industrial uses.”<sup>51</sup> However, the Project does not meet the requirements for the exemption because the Project site is not zoned exclusively for industrial use. As discussed below, the Project site is also on the Cortese list, which prohibits reliance on the advanced manufacturing exemption.<sup>52</sup> The record also fails to demonstrate that the Project qualifies as advanced manufacturing.

First, the Project site is currently zoned partially as agricultural land and is not zoned exclusively for industrial use. The Staff Report explains that “the zoning designations of the subject parcels are M-1-U (Light Industrial, Urban Overlay), M-2-U (Medium Industrial, Urban Overlay), and **A-2-U (General Agricultural, Urban Overlay)** in accordance with Zoning Map #1 of the Imperial County Land Use Ordinance (Title 9).”<sup>53</sup> The Applicant seeks to change the zone of the Project site through a lot merger, but failed to apply for a change of zone, as required by County Code.<sup>54</sup>

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<sup>50</sup> Imperial County Code § 90508.03.

<sup>51</sup> Imperial Valley Data Center Campus Site Plans, Imperial County California, available at: <https://imperialdatacenter.com/wp-content/uploads/2025/12/Data-Center-Plans-1-Site-Plans.pdf> p. 1.

<sup>52</sup> PRC §§ 21067.5(i); 21080.69(b).

<sup>53</sup> Staff Report, p. 2 (emphasis added).

<sup>54</sup> Imperial County Code §§ 90204.05-07.

Section 21080.69 authorizes exemption from CEQA only on sites “zoned exclusively for industrial use.”<sup>55</sup> Since the Project site is not zoned exclusively for industrial use, the exemption does not apply. In order to change the site’s zoning, the County is required to approve a Change of Zone Application in a noticed public hearing pursuant to County Code Sections 90204.05-07.

Second, the record lacks evidence demonstrating that the Project would qualify as “advanced manufacturing.” “Advanced manufacturing” is defined as manufacturing processes that improve existing or create entirely new materials, products, and processes through the use of science, engineering, or information technologies, high-precision tools and methods, a high-performance workforce, and innovative business or organizational models utilizing any of the following technology areas:

- (i) Microelectronics and nanoelectronics, including semiconductors.
- (ii) Advanced materials.
- (iii) Integrated computational materials engineering.
- (iv) Nanotechnology.
- (v) Additive manufacturing.
- (vi) Industrial biotechnology.<sup>56</sup>

The proposed Data Center does not propose to manufacture any of the above technologies. The Staff Report and Site Plan do not demonstrate how “artificial intelligence, machine learning, and high-throughput computing” constitute the creation of entirely new materials, including the above technologies.<sup>57</sup> Moreover, even if the Data Center were considered “advanced manufacturing,” the Project proposes to construct and operate additional facilities which are not exclusively for advanced manufacturing, including a substation, BESS and wastewater treatment facility.<sup>58</sup>

A CEQA exemption under Public Resources Code Section 21080.69 is inapplicable to the Project.

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<sup>55</sup> PRC § 21080.69(a)(4).

<sup>56</sup> PRC § 26003(a)(1)(A)–(B).

<sup>57</sup> PRC § 26003(a)(1)(A)–(B).

<sup>58</sup> PRC § 21080.69(a)(4).

**C. The Project is Subject to an Exception to CEQA Exemptions Because the Project Site is on the Cortese List**

Even if an agency meets its burden to demonstrate that a project is within a categorically exempt class, a project is not exempt if an exception to the exemption is applicable pursuant to CEQA Guidelines Section 15300.2.<sup>59</sup> One such exception is for “Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.”<sup>60</sup> The site’s presence on the Cortese List and unresolved contamination also prohibits reliance on the CEQA exemption for advanced manufacturing facilities under Public Resources Code Section 21080.69(a)(4).

Publicly available documentation from the Water Board demonstrates that the portion of the Project site located at 287 West Aten Road, El Centro CA 92243 is a Cortese List site, and has residual contamination. The Project therefore does not qualify for a CEQA exemption.

Data from the Water Board’s Cortese List database is set forth below:

DEPARTMENT OF TOXIC SUBSTANCES CONTROL  
**ENVIROSTOR**

Tools Reports Community Involvement How to Use EnviroStor ESI DTSC Web

**HAZARDOUS WASTE AND SUBSTANCES SITE LIST (CORTESE)**

For additional information and listing of sites, please refer to the [DTSC Environmental Protection Agency Cortese List page](#)

481 RECORDS FOUND [EXPORT TO EXCEL](#) PAGE 3 OF 10

STATUS	SITE LOCATION	FACILITY NAME	STATUS	AGENCY	TYPE	DATE	STATUS	CITY	COUNTY
ACTIVE	1400 W HANCOCK AVENUE	1827000	STATE RESPONSE	ACTIVE - LAND USE RESTRICTIONS	ANTHERPORT DRIVE	2010/01	2025	EL CENTRO	IMPERIAL
ACTIVE	1400 W HANCOCK AVENUE	1827000	STATE RESPONSE	ACTIVE	ANTHERPORT DRIVE	2010/01	2025	EL CENTRO	IMPERIAL
ACTIVE	287 WEST ATEN ROAD	1828019	STATE SUPERFUND OPERATING	ACTIVE - LAND USE RESTRICTIONS	287 WEST ATEN ROAD	2010/01	2025	EL CENTRO	IMPERIAL
ACTIVE	3100 SHERIDAN AVENUE	1828019	STATE SUPERFUND OPERATING	ACTIVE	3100 SHERIDAN AVENUE	2010/01	2025	EL CENTRO	IMPERIAL

<sup>59</sup> 14 CCR § 15300.2; *California Farm Bureau Fed’n*, 143 Cal. App. 4th at 186  
<sup>60</sup> Pub. Res. Code § 21084(d); 14 Cal Code Regs §15300.2(e).  
<sup>61</sup> California Department of Toxics Substance Control (“DTSC”), EnviroStor, Caspian Inc. (13280019) 287 West Aten Road, El Centro, CA 92243, Imperial County, available at: [https://www.envirostor.dtsc.ca.gov/public/profile\\_report?global\\_id=13280019](https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=13280019)  
<sup>61</sup> DTSC EnviroStor, Hazardous Waste and Substances List (Cortese) [https://www.envirostor.dtsc.ca.gov/public/search.asp?page=3&cmd=search&business\\_name=&main\\_street\\_name=&city=&zip=&county=&status=ACT%2CBKLG%2CCOM&branch=&site\\_type=CSITES%2CFUDS&npl=&funding=&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29&reporttype=CORTESE&federal\\_superfund=&state\\_response=&voluntary\\_cleanup=&school\\_cleanup=&operating=&post\\_closure=&non\\_operating=&corrective\\_action=&tiered\\_per](https://www.envirostor.dtsc.ca.gov/public/search.asp?page=3&cmd=search&business_name=&main_street_name=&city=&zip=&county=&status=ACT%2CBKLG%2CCOM&branch=&site_type=CSITES%2CFUDS&npl=&funding=&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29&reporttype=CORTESE&federal_superfund=&state_response=&voluntary_cleanup=&school_cleanup=&operating=&post_closure=&non_operating=&corrective_action=&tiered_per) 8120-005

From approximately 1973 to 1977, the Site was used for a copper-coated steel wire production facility which involved chemical processes that used chemical solutions such as sulfuric acid, hydrofluoric acid, calcium hydroxide and borax.<sup>62</sup> Caspian, Inc. purchased the Site for the manufacture of aerospace component parts in 1979.<sup>63</sup> Caspian, Inc. used a chemical process that involved controlled dissolution of metal in a solution of hydrochloric, nitric, and hydrofluoric acid.<sup>64</sup> Caspian ceased milling operations at the Site in 1984.<sup>65</sup> In 1986, Caspian removed contaminated concrete pads and soils under the oversight of the Regional Water Quality Control Board.<sup>66</sup> Subsequent testing results indicated a need for further site remediation.<sup>67</sup>

In 1989, the Department of Toxic Substances Control (“DTSC”) issued a Consent Order to complete the Remedial Investigation and eventual remediation of the site.<sup>68</sup> A Remedial Action Plan (“RAP”) which identified the selected clean-up alternatives was public noticed and a public meeting was held.<sup>69</sup> DTSC approved the RAP on December 29, 1993.<sup>70</sup> The Final Remedial Action was performed April 19 through June 2, 1994 and involved construction of a soil/flexible membrane layer composite layer over the east evaporation pond; and excavation and disposal of approximately 8.8 tons of contaminated soil to a Class I landfill.<sup>71</sup> The Site was certified on June 30, 1994 with a Land Use Covenant requiring further monitoring of the East Pond Cap.<sup>72</sup>

The 1994 Land Use Restrictive Covenant provides that the “Occupants shall obtain evidence of the Department’s satisfaction in writing before commencing the use, modification of use, and/or construction of the improvement.”<sup>73</sup> According to

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mit=&evaluation=&cvci=&spec\_prog=&national\_priority\_list=&senate=&congress=&assembly=&critical\_pol=&business\_type=&case\_type=&searchtype=&hwmp\_site\_type=&cleanup\_type=&ocieerp=&hwmp=False&permitted=&pc\_permitted=&inspections=&inspectionsother=&complaints=&censustract=&cesdecile=&school\_district=&orderby=city.

<sup>62</sup> California Department of Toxics Substance Control, EnviroStor, Caspian Inc. (13280019) 287 West Aten Road, El Centro, CA 92243, Imperial County, available at: [https://www.envirostor.dtsc.ca.gov/public/profile\\_report?global\\_id=13280019](https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=13280019).

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*

<sup>65</sup> *Ibid.*

<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*

<sup>68</sup> *Ibid.*

<sup>69</sup> *Ibid.*

<sup>70</sup> *Ibid.*

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*

<sup>73</sup> County of Imperial, Covenant to Restrict Use of Property Caspian, Inc. Site, El Centro, California, Document No 1994015338, 1744, 1445 (June 30, 1994), available at:

[https://www.envirostor.dtsc.ca.gov/public/view\\_document?docurl=/public/deliverable\\_documents/60118120-005](https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/60118120-005)

the Land Use Covenant, “ ‘Improvements’ shall mean all buildings, structures, roads, driveways, regarding, landscaping...and paved parking areas.”<sup>74</sup> The record does not contain any evidence that DTSC has approved development of the Project on the Cortese listed Project site. A search of DTSC records for the site contains no such approval.<sup>75</sup>

The Land Use Covenant was reissued on April 23, 2014 because “the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code section 25260.”<sup>76</sup> The 2014 Land Use Covenant provides that:

Hazardous substances, which are also considered hazardous materials as defined in Health and Safety Code section 24260, remain at the Property above levels acceptable for unrestricted land use. As a result of the presence of soils containing high pH levels, soluble copper at 32.5 milligram per liter (mg/l), and soluble chromium at 5.2 mg/l at the Property, the Department has concluded that it is reasonably necessary to restrict the use of the Property in order to protect present or future human health or safety or the environment, and that this Covenant is required as part of the Department-approved remedy for the Property.<sup>77</sup>

The 2014 Land Use Covenant provides that “No activities that may alter, disturb, interfere with, or otherwise affect the integrity of, or the access to, the East Pond Cap and surrounding fence installed in the East Pond Area (e.g. excavation, grading, removal, trenching, filling, earth movement, or mining) shall be allowed at the Property without prior written approval by the Department.”<sup>78</sup>

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[067032/Caspian%5FDeed%5FRestrict%5FJun%5F30%5F1994%2Epdf](#), p. 5 (hereinafter “Land Use Restrictive Covenant 1994”).

<sup>74</sup> Land Use Restrictive Covenant 1994, p. 2.

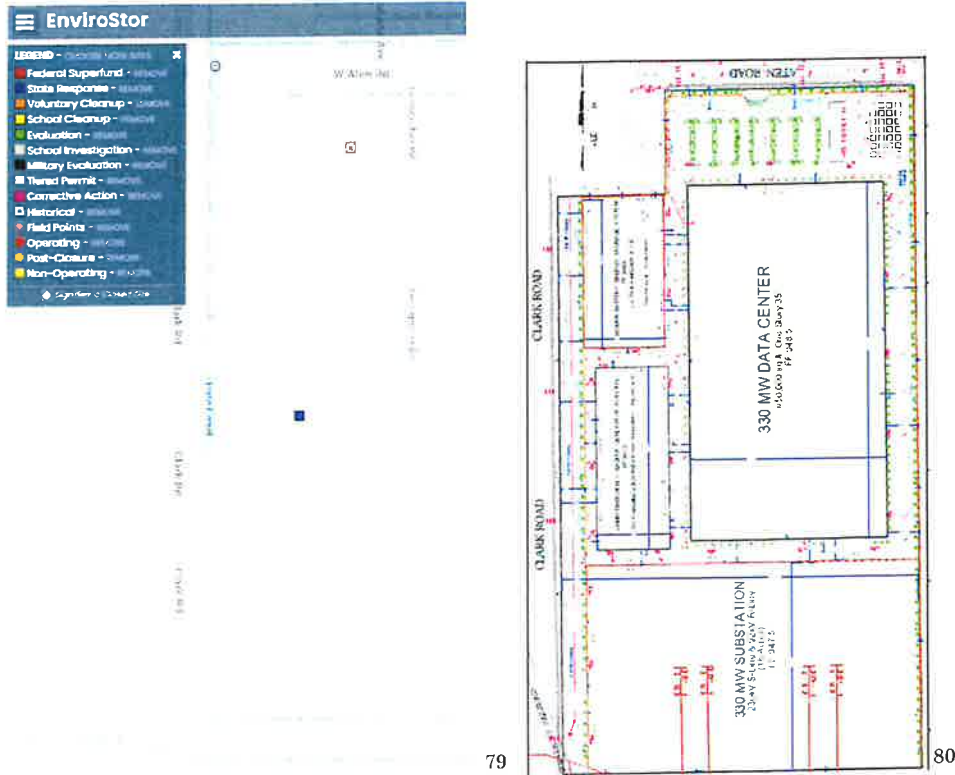
<sup>75</sup> California Department of Toxics Substance Control, EnviroStor, Caspian Inc. (13280019) 287 West Aten Road, El Centro, CA 92243, Imperial County, available at: [https://www.envirostor.dtsc.ca.gov/public/profile\\_report?global\\_id=13280019](https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=13280019).

<sup>76</sup> County of Imperial, Land Use Covenant and Agreement Environmental Restrictions County of Imperial Assessor’s Parcel Number: 044-220-045, Aten Properties LLC Site (Former Caspian Inc. Site) Site Code 401693 (April 23, 2014), available at: [https://www.envirostor.dtsc.ca.gov/public/view\\_document?docurl=/public/deliverable\\_documents/9461440861/REcorded%20LUC%20Final%2Epdf](https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/9461440861/REcorded%20LUC%20Final%2Epdf) (hereinafter “Land Use Covenant 2014”).

<sup>77</sup> Land Use Covenant 2014, p. 2.

<sup>78</sup> *Ibid.*  
8120-005

As set forth below, the Project proposes grading, construction, and development of the Data Center above the East Pond Cap, but the Department has not provided prior written approval to allow this development. See below:



The site's East Pond Cap renders the site so contaminated that it is listed for continued State Response on the Cortese List.

The site's Cortese listing and residual, unresolved contamination issues preclude reliance on a CEQA Categorical Exemption pursuant to CEQA Guidelines Section 15300.2(e) for "Hazardous Waste Sites" as well as CEQA exemption for advanced manufacturing under Public Resources Code Section 21080.69(a)(4).<sup>81</sup> Because a portion of the project site is listed on the Cortese List, neither the Lot

<sup>79</sup> DTSC Envirostor Map, Caspian Inc. 13280019 287 West Aten Road, El Centro, CA 92243  
[https://www.envirostor.dtsc.ca.gov/public/map/?global\\_id=13280019&zl=12](https://www.envirostor.dtsc.ca.gov/public/map/?global_id=13280019&zl=12).

<sup>80</sup> Imperial Valley Data Center Campus, Imperial County California, available at:  
<https://imperialdatacenter.com/wp-content/uploads/2025/12/Data-Center-Plans-1-Site-Plans.pdf>  
(hereinafter "Site Plan").

<sup>81</sup> PRC §§ 21067.5(i); 21080.69(b).  
8120-005

Merger nor the Project as a whole can be subject to exemption. The County's reliance on a CEQA exemption for the Lot Merger violates CEQA, and cannot be approved.

## **D. The Project Results in Significant Environmental Impacts**

### **1. The Project Results in Significant Hazards Impacts**

The Project would result in significant impacts from hazardous materials onsite. As detailed herein, the Project site is on the Cortese List of Hazardous Waste Sites.<sup>82</sup> The County therefore cannot rely on a Class 5 Categorical exemption from CEQA environmental review. The site also has residual contamination which requires further regulatory oversight to address prior to Project construction.

The Applicant prepared a Phase I ESA Report for the Project, but this ESA was not attached to the Staff Report for Planning Commission review or public scrutiny.<sup>83</sup> The Phase I ESA Report prepared for the Project provides that "Parcel APN 044-220-045 has a Land Use Restriction due to contaminated soils due to a copper wire plating operation and aerospace components that previously existed on the subject property."<sup>84</sup> The existing contamination on the Project site constitutes a "Recognized Environmental Condition" ("REC), and may result in significant hazardous materials impacts if improperly disrupted.<sup>85</sup>

If a project will exacerbate existing environmental hazards, CEQA requires that those exacerbated conditions be evaluated as impacts of the project.<sup>86</sup> The

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<sup>82</sup> DTSC EnviroStor, Hazardous Waste and Substances List (Corteses [https://www.envirostor.dtsc.ca.gov/public/search.asp?page=3&cmd=search&business\\_name=&main\\_street\\_name=&city=&zip=&county=&status=ACT%2CBKLG%2CCOM&branch=&site\\_type=CSITES%2CFUDS&npl=&funding=&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29&reporttype=CORTESE&federal\\_superfund=&state\\_response=&voluntary\\_cleanup=&school\\_cleanup=&operating=&post\\_closure=&non\\_operating=&corrective\\_action=&tiered\\_permit=&evaluation=&cvci=&spec\\_prog=&national\\_priority\\_list=&senate=&congress=&assembly=&critical\\_pol=&business\\_type=&case\\_type=&searchtype=&hwmp\\_site\\_type=&cleanup\\_type=&ocioerp=&hwmp=False&permitted=&pc\\_permitted=&inspections=&inspectionsother=&complaints=&censustract=&cesdecile=&school\\_district=&orderby=city](https://www.envirostor.dtsc.ca.gov/public/search.asp?page=3&cmd=search&business_name=&main_street_name=&city=&zip=&county=&status=ACT%2CBKLG%2CCOM&branch=&site_type=CSITES%2CFUDS&npl=&funding=&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29&reporttype=CORTESE&federal_superfund=&state_response=&voluntary_cleanup=&school_cleanup=&operating=&post_closure=&non_operating=&corrective_action=&tiered_permit=&evaluation=&cvci=&spec_prog=&national_priority_list=&senate=&congress=&assembly=&critical_pol=&business_type=&case_type=&searchtype=&hwmp_site_type=&cleanup_type=&ocioerp=&hwmp=False&permitted=&pc_permitted=&inspections=&inspectionsother=&complaints=&censustract=&cesdecile=&school_district=&orderby=city)).

<sup>83</sup> <https://imperialdatacenter.com/wp-content/uploads/2025/12/Study-3-Phase-1-Report.pdf>.

<sup>84</sup> GS Lyon Consultants, Inc., Phase I ESA Report Vacant Parcels (Site #2) 287 W. Aten Road Imperial, California Prepared for: Imperial Valley Computer Manufacturing, LLC (July 2025), available at: <https://imperialdatacenter.com/wp-content/uploads/2025/12/Study-3-Phase-1-Report.pdf>.

<sup>85</sup> *Id.* at p. 1; Clark Comments, p. 4.

<sup>86</sup> *California Bldg. Indus. Ass'n v Bay Area Air Quality Mgmt. Dist.* (2015) 62 C4th 369. 8120-005

Project's grading and trenching will exacerbate existing onsite hazards, absent adequate remediation and hazardous contamination mitigated.<sup>87</sup>

The California Supreme Court concluded that:

In light of CEQA's text, statutory structure, and purpose, we conclude that agencies subject to CEQA generally are not required to analyze the impact of existing environmental conditions on a project's future users or residents. But when a proposed project risks exacerbating those environmental hazards or conditions that already exist, an agency must evaluate the potential impact of such hazards on future residents or users. In those specific instances, it is the *project's* impact on the environment—and not the *environment's* impact on the project—that compels an evaluation of how those future residents or users could be affected by exacerbated conditions.<sup>88</sup>

Here, the Land Use Restrictive Covenant prohibits any grading or excavation of contaminated soils without DTSC review and approval. The 1994 Land Use Restrictive Covenant provides that the "Occupants shall obtain evidence of the Department's satisfaction in writing before commencing the use, modification of use, and/or construction of the improvement."<sup>89</sup> According to the Land Use Covenant, " 'Improvements' shall mean all buildings, structures, roads, driveways, regarding, landscaping...and paved parking areas."<sup>90</sup> The record does not contain any evidence that DTSC has approved development of the Project on the Cortese listed Project site. A search of DTSC records for the site contains no such approval.<sup>91</sup>

The Staff Report makes no mention of hazardous contamination on the Project site, nor remediation and approval of development by DTSC. The grading, trenching, and development on the Project site could result in significant hazardous materials impacts, which the Staff Report fails to analyze and mitigate.<sup>92</sup> Given reh

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<sup>87</sup> Clark Comments, p. 4.

<sup>88</sup> *California Bldg. Indus. Ass'n v Bay Area Air Quality Mgmt. Dist.* (2015) 62 C4th 369, 377.

<sup>89</sup> County of Imperial, Covenant to Restrict Use of Property Caspian, Inc. Site, El Centro, California, Document No 1994015338, 1744, 1445 (June 30, 1994), available at:

[https://www.envirostor.dtsc.ca.gov/public/view\\_document?docurl=/public/deliverable\\_documents/6011067032/Caspian%5FDeed%5FRestrict%5FJun%5F30%5F1994%2Epdf](https://www.envirostor.dtsc.ca.gov/public/view_document?docurl=/public/deliverable_documents/6011067032/Caspian%5FDeed%5FRestrict%5FJun%5F30%5F1994%2Epdf), p. 5 (hereinafter "Land Use Restrictive Covenant 1994").

<sup>90</sup> Land Use Restrictive Covenant 1994, p. 2.

<sup>91</sup> California Department of Toxics Substance Control, EnviroStor, Caspian Inc. (13280019) 287 West Aten Road, El Centro, CA 92243, Imperial County, available at:

[https://www.envirostor.dtsc.ca.gov/public/profile\\_report?global\\_id=13280019](https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=13280019).

<sup>92</sup> Clark Comments, p. 4.

requirement for DTSC oversight, the Project cannot be approved until all required consultation has occurred. The County issuance of the grading permit for the Project site without prior approval by DTSC violated these requirements. The County should immediately revoke the grading permit and comply with CEQA and DTSC regulations with regard to the site's residual contamination.<sup>93</sup>

## **2. The Project May Result in Significant Public Safety Impacts from Thermal Runaway of the Battery Energy Storage Site**

The Project site is within 200 feet of nearby residential receptors on Gaebrial Court, Evern Court, Josh Court, Taylor Drive, and Samantha Court in Imperial California.<sup>94</sup> The Staff Report does not analyze the Project's potentially significant impacts on adjacent residences. Dr. Clark's comments demonstrate that an explosion of the battery energy storage systems could result in potentially hazardous conditions for nearby residents.

Dr. Clark's comments demonstrate that BESS accidents are a foreseeable hazard that has not been evaluated in the Staff Report.<sup>95</sup> The National Fire Protection Association identified impacts of energy storage systems, which were not adequately analyzed in the DEIR including: 1) Thermal runaway (rapid uncontrolled release of heat energy, resulting in fire or explosion); 2) Shock hazard from stranded energy; 3) Release of toxic and flammable gases; 4) Deep seated fires within metal or plastic casing, blocking fire fighting agents; 5) Mechanical abuse; 6) Thermal abuse from exposure to external heat source; 7) Electrical abuse from overcharging; 8) Environmental impacts including rodent damage to wiring extreme heat, and floods.<sup>96</sup>

The most frequently used storage batteries for BESS are lithium-ion batteries.<sup>97</sup> The chemical composition of the lithium-ion batteries includes cobalt oxide; manganese dioxide; nickel oxide; carbon; unidentified electrolyte; polyvinylidene fluoride; aluminum foil; copper foil; aluminum; and inert materials.<sup>98</sup>

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<sup>93</sup> County of Imperial, Notice of Exemption, Grading Permit BP#63316 (Initial Study #25-0041) (Nov. 6, 2025, available at: <https://www.icpds.com/assets/noe---grading--permit-63316---initial-study--25-0041-web-11-6-2025.pdf>).

<sup>94</sup> Clark Comments, p. 5.

<sup>95</sup> Clark Comments, p. 6.

<sup>96</sup> NFPA, Fire & Life Safety Policy Institute, Safety Through Better Public Policy, August 2019; <https://www.nfpa.org/News-and-Research/Resources/Emergency-Responders/High-risk-hazards/Energy-Storage-Systems>.

<sup>97</sup> Clark Comments, p. 5.

<sup>98</sup> Imperial County Planning and Development Services, Draft Supplemental Environmental Impact Report for the Proposed Le Conte Energy Storage System. Prepared by Burns McDonnell, July 15, 8120-005

Lithium-ion batteries contain a flammable electrolyte and have the potential for “thermal runaway,” which is a self-perpetuating cascade process where one compromised battery cell ignites adjacent cells, potentially resulting in a large-scale fire.<sup>99</sup> Fires have occurred at utility-scale lithium-ion BESS installations, including one at the 2 MW APS McMicken Battery Energy Storage facility in Surprise, Arizona in April of 2019.<sup>100</sup> The McMicken explosion injured four firefighters and destroyed the BESS and its container.<sup>101</sup>

Dr. Clark’s comments demonstrate that BESS fires represent a significant environmental and public health and safety impact which are not addressed in the Staff Report.<sup>102</sup> Dr. Clark identified potentially significant worker and public health impacts from hazardous air pollutants (“HAPs”) and damage to the adjacent facilities and residences.<sup>103</sup> First responders and firefighters are a significant at-risk population when batteries rupture after exposure to extreme heat/fire, leaking corrosive materials, and/or emit toxic fumes, regardless of the specific battery technology.<sup>104</sup> Burning batteries may emit acrid smoke, irritating fumes, and toxic fumes of fluoride, resulting in acute and chronic health effects in responding firefighters (and any nearby workers and residents).<sup>105</sup> Acute health hazards include chemical inhalation burns and damage to lungs, eyes, and skin. Cobalt, present in lithium-ion batteries, is a suspected human carcinogen.<sup>106</sup> Dr. Clark’s comments demonstrate that BESS explosions on the Project site may result in significant environmental impacts which the County must analyze and mitigate in an Initial Study and EIR before the Project can proceed.

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2019, p. 2-15; <https://files.ceqanet.lci.ca.gov/102474-7/attachment/VORQ5FRedyfsYUuY2ovEusvEqxwZ0LhjhFnyAN9BdV39DkkN8t3kt1zOIYvYKnrsNYrKB7WwE4Ms7F70>.

<sup>99</sup> DEIR, p. 4.9-39.

<sup>100</sup> *Id.*

<sup>101</sup> Arizona Public Service, *Technical Support for APS Related to McMicken Thermal Runaway and Explosion: McMicken Battery Energy Storage System Event Technical Analysis and Recommendations*. Available at: <https://www.aps.com/-/media/APS/APSCOM-PDFs/About/Our-Company/Newsroom/McMickenFinalTechnicalReport.ashx?la=en&hash=50335FB5098D9858BFD276C40FA54FCE>. Accessed December 14, 2020.

<sup>102</sup> Clark Comments, p. 7.

<sup>103</sup> Clark Comments, p. 7.

<sup>104</sup> Clark Comments, p. 7.

<sup>105</sup> Clark Comments, p. 7.

<sup>106</sup> Clark Comments, p. 7.

### 3. The Project Results in Significant Air Quality Impacts from the Natural Gas Backup Generators

Dr. Clark's comments demonstrate that the Project will result in significant, unmitigated air quality and public health impacts from the Project's 132 Caterpillar G3520 Natural Gas Generators.<sup>107</sup>

Dr. Clark calculated that each generator running for 1 hour would produce about 4200 grams of NO<sub>x</sub> and 2,900 grams of VOCs.<sup>108</sup> All 132 generators running together for one hour would produce 554,400 grams or 1,200 lbs of NO<sub>x</sub> and 382,800 grams or 842.16 lbs of VOCs. This emission amount would violate the Imperial Valley Air Pollution Control District Tier II threshold for both compounds.

Imperial Valley Air District requires preparation of an EIR where a Project proposes to emit more than 137 pounds of NO<sub>x</sub> per day.<sup>109</sup> Here, the backup generators alone would produce more than 1,200 pounds of NO<sub>x</sub> per day, such that an EIR must be prepared pursuant to County requirements.

Imperial County Air District requires that "Any proposed residential, commercial, or industrial development with a potential to meet or exceed the 137 lbs/day of NO<sub>x</sub> or ROG; 150 lbs/day of PM<sub>10</sub> or SO<sub>x</sub>; or 550 lbs/day of CO or PM<sub>2.5</sub> is considered to have a significant impact on regional and local air quality."<sup>110</sup> Therefore, "Tier II projects are required to implement all standard mitigation measures as well as all feasible discretionary mitigation measures. These measures must be listed and incorporated into the environmental document, which is prepared by the Lead Agency. Typically, Tier II projects are required, by the Lead Agency, to prepare an EIR however, should a Lead Agency exempt a project from the development of an EIR the ICAPCD requires, at a minimum, a Comprehensive Air Quality Analysis Report."<sup>111</sup> See Table 1 below.

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<sup>107</sup> Clark Comments, p. 8; Staff Report, Attachment E, pdf p. 30.

<sup>108</sup> Clark Comments, p. 9.

<sup>109</sup> Imperial County Air Pollution Control District, CEQA Air Quality Handbook, (Dec. 12, 2017), p. 10, available at: <https://apcd.imperialcountv.org/wp-content/uploads/2020/01/CEQAHandbk.pdf>.

<sup>110</sup> *Ibid.* p. 11.

<sup>111</sup> *Ibid.*  
8120-005

Table 1, Thresholds of Significance for Project Operations

Pollutant	Tier I	Tier II
NOx and ROG	Less than 137 lbs/day	137 lbs/day and greater
PM <sub>10</sub> and SOx	Less than 150 lbs/day	150 lbs and greater
CO and PM <sub>2.5</sub>	Less than 550 lbs/day	550 lbs/day and greater
Level of Significance	Less Than Significant	Significant Impact
Level of Analysis	Initial Study	Comprehensive Air Quality Analysis Report
Environmental Document	Negative Declaration	Mitigated ND or EIR

Tier I. Less than 137 lbs/day of NOx or ROG; less than 150 lbs/day of PM<sub>10</sub> or SOx; or less than 550 lbs/day of CO or PM<sub>2.5</sub>

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Here, an EIR is required because substantial evidence in Dr. Clark's comments demonstrates that the Project will exceed 137 pounds per day of NOx emissions from the backup generators alone.<sup>113</sup>

#### 4. Project Construction Results in Significant Air Quality Impacts

Dr. Clark conducted an independent air quality modeling study of construction of the Project. He identified a potentially significant air quality impact from unmitigated construction air pollutant emissions.<sup>114</sup> Dr. Clark's CALEEMod model identified the particulate matter less than or equal to 10 microns (PM<sub>10</sub>), and particulate matter less than or equal to 2.5 microns (PM<sub>2.5</sub>) would exceed the Imperial County APCD's CEQA Significance Thresholds of 137 lbs per day for VOCs and PM<sub>10</sub> and 550 lbs for PM<sub>2.5</sub>. Dr. Clark identified that emissions of PM<sub>10</sub> at levels in excess of 639 lbs per day, PM<sub>2.5</sub> emissions at levels in excess of 660 lbs per day, and ROG emissions of 661 lbs per day exceed the Imperial County Air District's threshold of 137 lbs per day.

Imperial County Air District requires that, where a Project's emissions exceed 137 lbs per day, an EIR must be prepared.<sup>115</sup> An EIR must be prepared for this Project, which adequately analyzes and mitigates the Project's significant construction emissions, in accordance with CEQA, before the Project can proceed.

<sup>112</sup> *Id.* at Table 1.

<sup>113</sup> *Id.*

<sup>114</sup> Clark Comments, p. 10.

<sup>115</sup> Imperial County Air Pollution Control District, CEQA Air Quality Handbook, (Dec. 12, 2017), p. 10, available at: <https://apcd.imperialcounty.org/wp-content/uploads/2020/01/CEQAHandbk.pdf>.  
8120-005

## 5. The Project Results in Potentially Significant Noise Impacts

The Applicant provided that the Project includes a backup generator building housing 132 Caterpillar G3520 natural gas generators.<sup>116</sup> Further, the Applicant provided that the Emergency Generator Building will include noise mitigation strategies – sound enclosures, exhaust silencers, and acoustic barriers -- and acoustic modeling during design.<sup>117</sup> The Staff Report does not include any indication that these measures will be included in the proposed Project or to what degree these “noise mitigation strategies” will actually reduce onsite noise. As such, the Project’s noise impacts may remain significant and must be analyzed in an EIR in accordance with CEQA.

Furthermore, CEQA prohibits the use of mitigation measures to mitigate a project into a categorical exemption. The Court in *Salmon Protection & Watershed Network (SPAWN) v. County of Marin*,<sup>118</sup> held that “If a project may have a significant effect on the environment, CEQA review must occur and only then are mitigation measures relevant.” “Mitigation measures may support a negative declaration but not a categorical exemption.”<sup>119</sup> Here, the County seeks to rely on “noise mitigation strategies – sound enclosures, exhaust silencers, and acoustic barriers” to reduce potentially significant noise impacts from the generators, in violation of CEQA. The Planning Commission must prepare an EIR which adequately analyzes and mitigates the Project’s potentially significant environmental impacts before the Project can lawfully proceed.

## 6. The Project May Result in Significant Water Supply Impacts

The Staff Report provided no information regarding whether the Project will be adequately served by existing water supply. The City of Imperial provided that they are working with the Applicant “on providing reclaimed water from the City of Imperial facilities for what we believe to be the data center proposed for this site.”<sup>120</sup> But, the City has not finalized this agreement, and the Staff Report provides no

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<sup>116</sup> Letter from Sebastian Rucci, Imperial Valley Computer Manufacturing, LLC, AIR QUALITY REGULATORY CONSTRAINTS ON EMERGENCY STANDBY NATURAL GAS GENERATORS PERMITTING IN IMPERIAL COUNTY, CALIFORNIA, available at:

<https://imperialdatacenter.com/wp-content/uploads/2025/12/Generators-2-Report-by-IVCM.pdf>.

<sup>117</sup> *Ibid.*

<sup>118</sup> (2004) 125 Cal.App.4th 1098.

<sup>119</sup> *Salmon Protection & Watershed Network (SPAWN) v. County of Marin* (2004) 125 Cal.App.4th 1098, 1108.

<sup>120</sup> Staff Report, Attachment F, p. 39 of 59.  
8120-005

December 17, 2025

Page 25

certainty regarding whether there is sufficient water supply to support the Data Center Complex's water supply needs.

Recent reporting from NPR provides that "A 2024 federal report found that U.S. data centers consume 17 billion gallons of water a year."<sup>121</sup> The same report found that nearly 75 percent of the American west is in drought.<sup>122</sup> The record before the Planning Commission does not provide any evidence that the Data Center Complex is adequately served by water supply. The Lot Merger application includes a crossed-out section that demonstrates that IID will no longer serve the Project,<sup>123</sup> but the wastewater treatment plant could potentially get water from the City of Imperial.<sup>124</sup> This does not constitute substantial evidence that there is sufficient water supply. An EIR must be prepared which adequately analyzes the Project's water needs, water supply, and water availability before the Project can proceed.

## **7. The Project May Result in Significant Odor Impacts from the Wastewater Treatment Plant**

The Staff Report fails to analyze any impacts associated with the wastewater treatment plant onsite. Dr. Clark's comments provide substantial evidence that noxious emissions from the sewer treatment plant would directly adversely affect residents to the east of the Project site.<sup>125</sup> Dr. Clark cites volatile odorous components that may be detected during the wastewater treatment process, including halocarbons (chlorotrifluoromethane, fluorotrichloromethane, dichloromethane, etc.) and aromatics (ethylbenzene, benzene, toluene, etc.), which may endanger public health and safety. Unpleasant odors have been historically considered as indicators of potential risks to human health; the odor sensations themselves may also cause health symptoms.<sup>126</sup> Common health effects include: eye, nose and throat irritation, headaches, nausea, and nasal congestion.<sup>127</sup> These potentially significant odor and air pollutant emissions must be analyzed and mitigated in an EIR circulated for public review and scrutiny before the Project can proceed.

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<sup>121</sup> Kaleb Roedel, NPR, Data centers are thirsty for water. This Nevada region is prepared, at least for now (Dec. 1, 2025), available at: <https://www.npr.org/2025/12/01/nx-s1-5580551/data-centers-are-thirsty-for-water-this-nevada-city-is-prepared-at-least-for-now>.

<sup>122</sup> *Ibid.*

<sup>123</sup> Staff Report, Attachment E, p. 1-3, pdf p. 20 of 59.

<sup>124</sup> Staff Report, Attachment F, pdf p. 53 of 59.

<sup>125</sup> Clark Comments, p. 9.

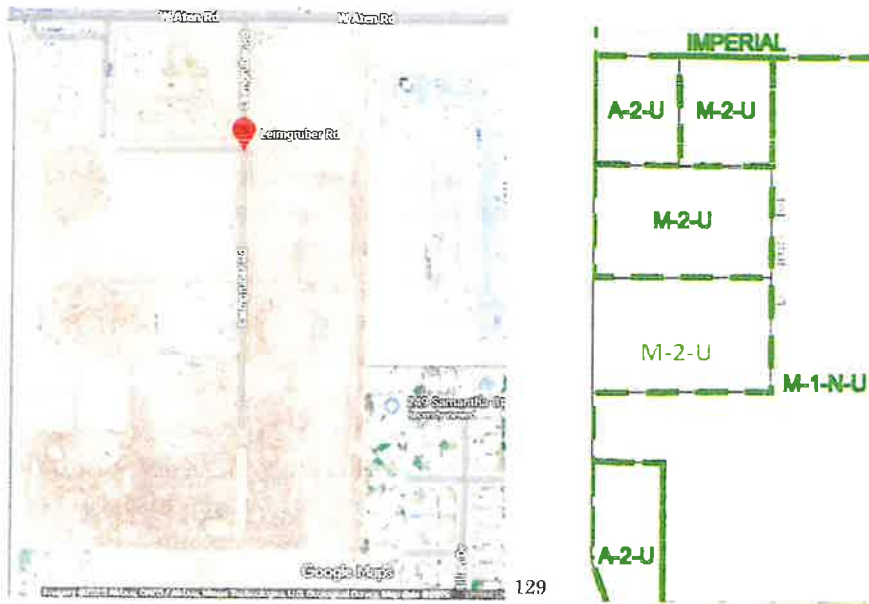
<sup>126</sup> Clark Comments, p. 9.

<sup>127</sup> Clark Comments, p. 9.

**V. THE LOT MERGER DOES NOT COMPLY WITH APPLICABLE LAND USE REGULATIONS**

**A. The County Cannot Make the Necessary Findings for Lot Merger**

A Lot Merger of the Project's parcels would result in violation of County Code Section 90808.00 which provides that "Merger can only be considered where: all the lots or parcels are contiguous...the lot merger is between lots or parcels that were created by a parcel or tract map consistent with the Subdivision Map Act and County Ordinance in effect at the time they were created, [and] the lots or parcels cannot be separated by or affected by an easement, right-of-way, road, alley or canal..."<sup>128</sup> The Project cannot be approved for a Lot Merger, because the parcels are not contiguous and are separated by Leimgruber Road. See below:



The Staff Report repeatedly states that "Upon approval of a Road Abandonment application for Leimgruber Road by the Imperial County Board of Supervisors, Lot Merger #00191 will be consistent with the provisions of the Imperial County Land Use Ordinance (Title 9), Division 8 (Subdivision Ordinance), Section 90808.00, "Lot Mergers Initiated by Property Owner."<sup>130</sup>

<sup>128</sup> Imperial County Code § 90808.00.

<sup>129</sup> Google Maps, 2025.

<sup>130</sup> Staff Report, p. 2.

Citizens' counsel asked the County Planning Department for a copy of the Road Abandonment application for Leimgruber Road on December 12 and thereafter on December 15, 2025. On December 16, 2025, the County confirmed that "no road abandonment application has been submitted yet."<sup>131</sup>

The County Code does not authorize lot mergers where a future approval will render the site contiguous. It provides that at the time of "the processing of Lot Merger applications initiated by the record property owner, ***Merger can only be considered*** where: A. All the lots are contiguous... and C. The lots or parcels cannot be separated...by [a] road."<sup>132</sup> That is not the case here. The record before the Planning Commission does not demonstrate that the Road Abandonment application for Leimgruber Road has been submitted to the County for consideration, let alone approved by the Board of Supervisors.<sup>133</sup>

At the time of the receipt of the Lot Merger Application, the Director was required to determine compliance with County Code and the Subdivision Map Act in order to determine whether the Lot Merger application could even be considered.<sup>134</sup> The Director's failure to make these determinations resulted in a failure to proceed in the manner required by law.

Given that the lots and parcels are not contiguous and the lots are separated by Leimgruber Road and are not consistent with County Code, the County is required to deny the Lot Merger.

### **B. The County Must Implement a Change of Zone Rather than a Lot Merger**

As detailed herein, the Merger of the 5 parcels proposed by the County would effectively result in a change of zone. Parcel 44-220-007 and 044-220-006 are zoned A-2-U as General Agricultural, Urban. The Applicant's proposal to merge the 5 lots into one would change the zone of Parcel 44-220-007 and 044-220-006 from A-2-U to M-1-U.

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<sup>131</sup> Exhibit B – Email from Luis Valenzuela Planner II Imperial County Planning & Development Services Dept. to Rachel L. Levine Adams Broadwell Joseph & Cardozo ("ABJC") on behalf of CURE Re: MERG#00191 Inquiry (Tue 12/16/2025 9:38 AM).

<sup>132</sup> Imperial County Code § 90808.00 (emphasis added).

<sup>133</sup> Exhibit B – Email from Luis Valenzuela Planner II Imperial County Planning & Development Services Dept. to Rachel L. Levine Adams Broadwell Joseph & Cardozo ("ABJC") on behalf of CURE Re: MERG#00191 Inquiry (Tue 12/16/2025 9:38 AM).

<sup>134</sup> Imperial County Code § 90808.00.  
8120-005

Pursuant to Imperial County Code Section 90204.01, a Change of Zone is:

1. The classification, and/or the re-classification of the zoning of property, and/or
2. Changes in the permitted uses or regulations on property (either community-wide or by parcels or portions of a parcel) within particular land use categories.

The Imperial County Code provides that “[s]ince a change of zone is a legislative act and a discretionary function, only the Board of Supervisors shall have the authority to approve a change of zone by the enactment of an Ordinance. The Board of Supervisors shall not consider, review and approve or deny a change of zone unless it first receives a recommendation from the Planning Commission, including therewith a staff report.”<sup>135</sup> Rezoning is a discretionary action that must be reviewed by the Planning Commission and approved by the Board of Supervisors following a noticed public hearing.<sup>136</sup> The Applicant’s proposal to change the zone of the 5 parcels through a lot merger instead of a zone change violates the procedures required under the County Code.

The Applicant also seeks to circumvent the Imperial County Code agricultural zoning standards, which provide that data centers are not a permitted use on Agricultural A-2-U (General Agricultural, Urban Overlay) through a Lot Merger to change the zoning to M-1-U where data centers are a permitted use.<sup>137</sup>

The Project’s Site Plan asserts that, once the site is zoned M-1-U, the Project is then subject to a ministerial exemption from CEQA. The assertion in the Site Plan that “[t]he ministerial project exemption categorically exempt the Data Center from CEQA review, regardless of potential environmental impacts, because its [sic] located on M-1 industrial zoned land in which data center are a permitted use as of right” **is not correct**.<sup>138</sup> The site is not zoned exclusively M-1 industrial land; it is also zoned A-2-U agricultural land, a zone in which data centers are prohibited. The Applicant seeks to change the zone of the Project site through a lot merger, but that does not change the fact that the Project is inconsistent with the current agricultural zoning. The Applicant also failed to apply for a change of zone, as required by County Code. The Planning Commission cannot approve the Lot Merger unless the County also processes a zoning change pursuant to County Code requirements.

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<sup>135</sup> Imperial County Code § 90204.05.

<sup>136</sup> Imperial County Code §§ 90204.05-07.

<sup>137</sup> Staff Report, Attachment C, Planning Commission Resolution, p. 2.

<sup>138</sup> Staff Report, Attachment C, Planning Commission Resolution, p. 2.  
8120-005

## VI. CONCLUSION

For the reasons detailed herein, the Planning Commission should remand the Project to Staff to prepare an EIR for the Data Center Project before any Project entitlements are considered for approval. The Lot Merger is part of the larger Data Center Project, and must be analyzed in a single CEQA document with the rest of the Project. The proposed Lot Merger is not subject to a CEQA exemption. The proposed Lot Merger also fails to comply with the County Code, and requires a zoning change prior to approval.

Citizens urges the County to fulfill its responsibilities under CEQA and applicable land use laws by preparing an EIR to address the issues raised in this comment letter and the attached comments from Dr. Clark. This is the only way the County, decisionmakers, and the public can ensure the Project's significant environmental, public health and safety impacts are mitigated to less than significant levels.

Sincerely,

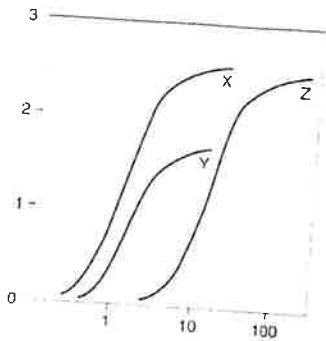
*/s/ Kelilah Federman*

Kelilah D. Federman

:KDF

# **EXHIBIT A**

PC ORIGINAL PKG



**Clark & Associates**  
Environmental Consulting, Inc.

**OFFICE**  
12405 Venice Blvd  
Suite 331  
Los Angeles, CA 90066

**PHONE**  
310-907-6165

**FAX**  
310-398-7626

**EMAIL**  
jclark.assoc@gmail.com

December 15, 2025

Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080

**Attn: Ms. Kelilah Federman**

**Subject: Comment Letter on Imperial Valley Data Center, 2304  
Clark Road, Imperial, California**

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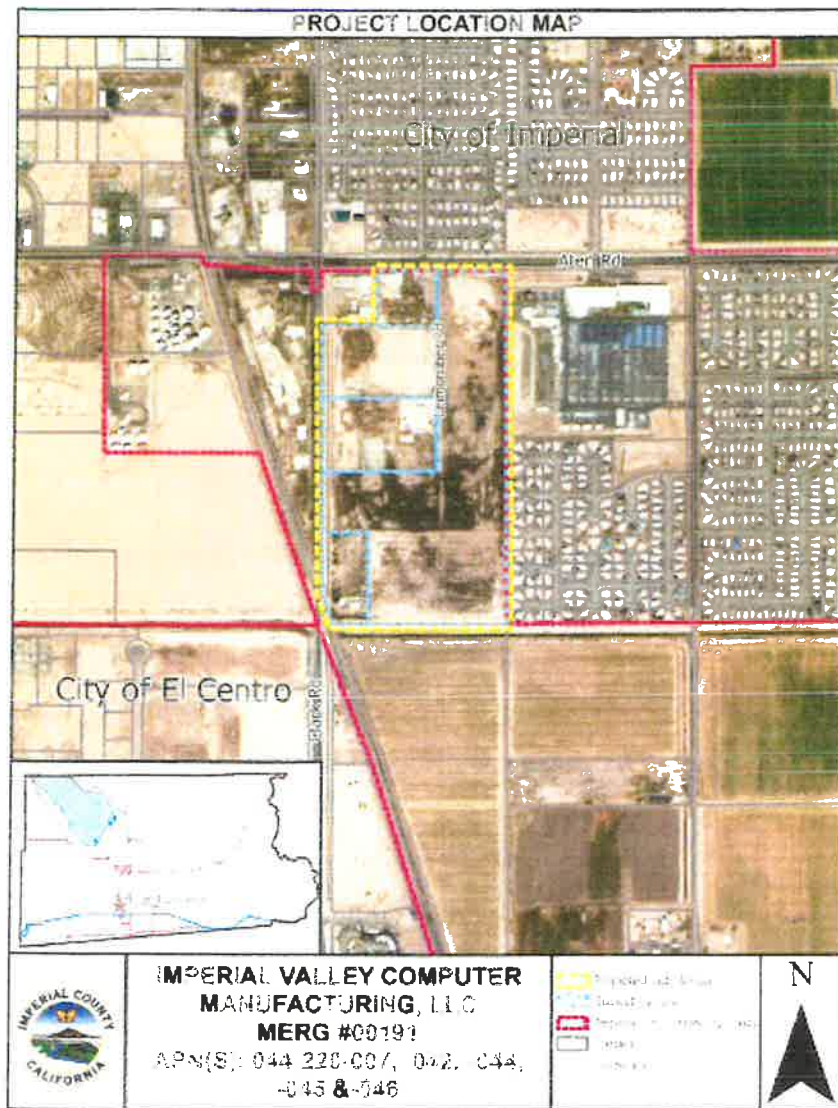
Dear Ms. Federman:

At the request of Adams Broadwell Joseph & Cardozo (ABJC), Clark and Associates (Clark) has reviewed materials related to the above referenced Project. Clark's review of the materials in no way constitutes a validation of the conclusions or materials contained within the plan. If we do not comment on a specific item this does not constitute acceptance of the item.

**Project Description:**

According to the Imperial County Planning & Development Services Department Staff Report of the Project, there is a planned lot merger of five (5) individual parcels and Leimgruber Road will turn into a single approximately ±75.39-acre site for the future development of a Data Center Complex. The project would include ancillary infrastructure such as an electrical substation, an on-site Battery Energy Storage System (BESS) to support power backup, and emergency power generation through natural gas backup generators. The site is situated on previously disturbed agricultural and industrial lands.

All wastewater generated by the facility would be treated on-site through a proposed wastewater treatment system. Once treatment capacity is reached, the treated effluent would be conveyed to the Imperial Irrigation District's Central Drain located just south of the proposed project site.



**Figure 1: Project Location Map**

The proposed project area is bounded by Aten Road to the north, Clark Road to the west, active agricultural lands to the south, and the U.S. Border Patrol Station, El Centro Sector to the east. To the east of the project are residences. The site lies immediately adjacent to the city limits of both the City of El Centro and the City of Imperial.

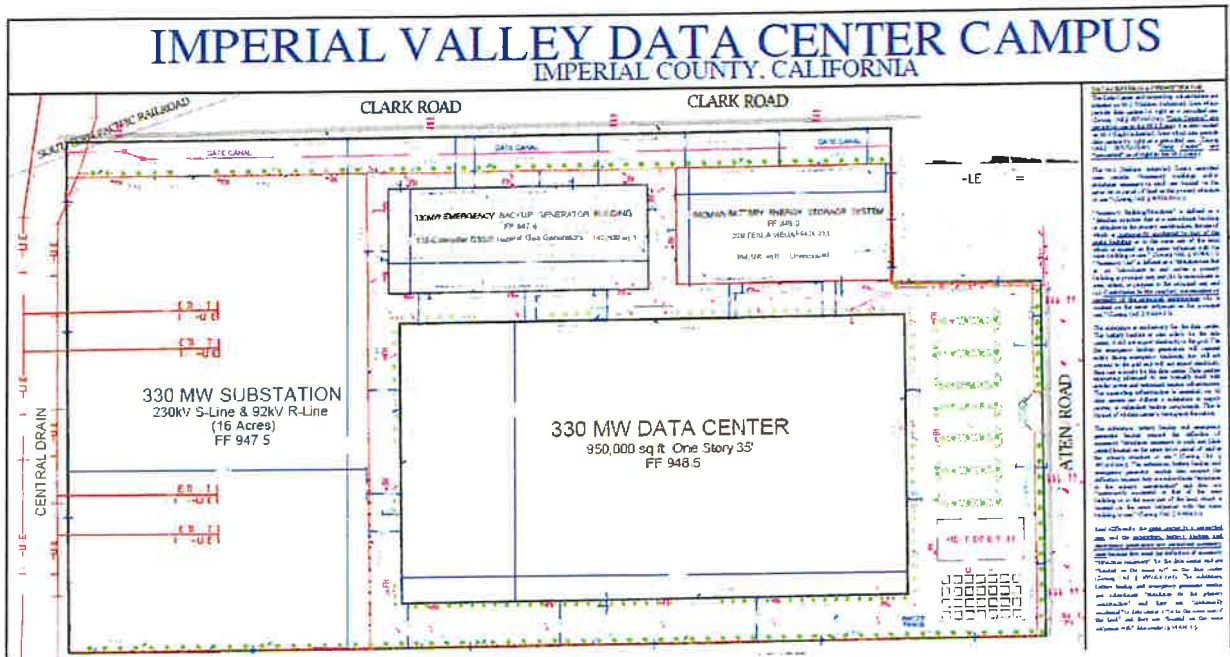


Figure 2: Site Plan

The Staff Report goes on to state that “Pursuant to a review of the CEQA Guidelines, Lot Merger #00191 has been found to be categorically exempt from the requirements of CEQA in accordance with Article 19, Section 15305, Class 5 (Minor Alterations in Land Use Limitations). Accordingly, no further environmental documentation is required under State law.” This judgement by the Staff is not supported by the evidence contained within the Project files and publicly available evidence. The County must prepare an Initial Study and environmental review document before issuing any approvals for the Project.

### Specific Comments

1. **The Staff Report Fails To Consider The Presence Of Hazardous Materials Buried Onsite And The Land Use Covenant Which Dictates Restrictions On The Movement Of Onsite Soils Without Prior Consent From The Department Of Toxic Substances Control (DTSC).**

The subject property listed as 2304 Clark Road (Imperial, CA) contains the former Caspian Inc. site which is under an Operations and Maintenance/Land Use Covenant (O&M/LUC) agreement

with the DTSC.<sup>1</sup> The exact address of the DTSC site is listed as 287 West Aten Road, contained within the Project Site.<sup>2</sup> According to the Geotracker summary for the Site "From approximately 1973 to 1977, the Site was used for a copper-coated steel wire production facility which involved chemical processes that used chemical solutions such as sulfuric acid, hydrofluoric acid, calcium hydroxide and borax. In 1979, Caspian, Inc. (successor in interest to Taravat Inc.) purchased the Site for the manufacture of aerospace component parts. Caspian, Inc. used a chemical process that involved controlled dissolution of metal in a solution of hydrochloric, nitric, and hydrofluoric acid, after which the metal was removed and rinsed with water. Caspian ceased milling operations at the Site in 1984. In 1986, Caspian removed contaminated concrete pads and soils under the oversight of the Regional Water Quality Control Board. Subsequent testing results indicated a need for further site remediation.

In 1989, the DTSC issued a Consent Order to complete the Remedial Investigation (RI) and eventual remediation of the site. Subsequently, a Risk Assessment and a RI were conducted and completed. In December 1993, DTSC approved a Feasibility Study Report which identified, evaluated and screened Site clean-up alternatives. A Remedial Action Plan (RAP) which identified the selected clean-up alternatives was public noticed and a public meeting was held. DTSC approved the RAP on December 29, 1993.<sup>3</sup>

The Final Remedial Action was performed April 19 through June 2, 1994 in accordance with the approved Remedial Action Workplan. The remediation involved construction of a soil/flexible membrane layer composite layer over the Teast evaporation pond; and excavation and disposal of approximately 8.8 tons of contaminated soil to a Class I landfill. The Site was certified on June 30, 1994 with a Land Use Covenant requiring further monitoring of the East Pond Cap.

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[https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable\\_documents%2F9461440861%2FREcorded%20LUC%20Final.pdf](https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F9461440861%2FREcorded%20LUC%20Final.pdf);

[https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable\\_documents%2F6011067032%2FCaspian\\_Deed\\_Restrict\\_Jun\\_30\\_1994.pdf](https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F6011067032%2FCaspian_Deed_Restrict_Jun_30_1994.pdf).

<sup>2</sup> California Department of Toxics Substance Control ("DTSC"), EnviroStor, Caspian Inc. (13280019) 287 West Aten Road, El Centro, CA 92243, Imperial County, available at: [https://www.envirostor.dtsc.ca.gov/public/profile\\_report?global\\_id=13280019](https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=13280019)

<sup>3</sup> California Department of Toxics Substance Control ("DTSC"), EnviroStor, Caspian Inc. (13280019) 287 West Aten Road, El Centro, CA 92243, Imperial County, available at: [https://www.envirostor.dtsc.ca.gov/public/profile\\_report?global\\_id=13280019](https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=13280019)

The site is inspected annually and three Five Year Reviews have been conducted. The next Five Year Review is scheduled for 2026."<sup>4</sup> According to the summary from the DTSC, the potentially affected media include indoor air, groundwater, soil, soil vapor, and surface water at the site (when present).<sup>5</sup> The LUC prevents any excavation of contaminated soils without the Agency's (DTSC's) review and approval.<sup>6</sup> Since there is a membrane involved any grading or excavation would potentially exacerbate existing onsite contamination. Therefore, any planned construction activities onsite would need to undergo a thorough review with DTSC and since the Site contains hazardous materials, at least an initial study would need to be performed on the Project to ensure compliance with CEQA. It is much more likely that given the restrictions on the Project Site that an environmental impact report will need to be performed.

**2. The Project Site Abuts Residential Properties To The East. No Mention Of The Residences Is Given In The Staff Report.**

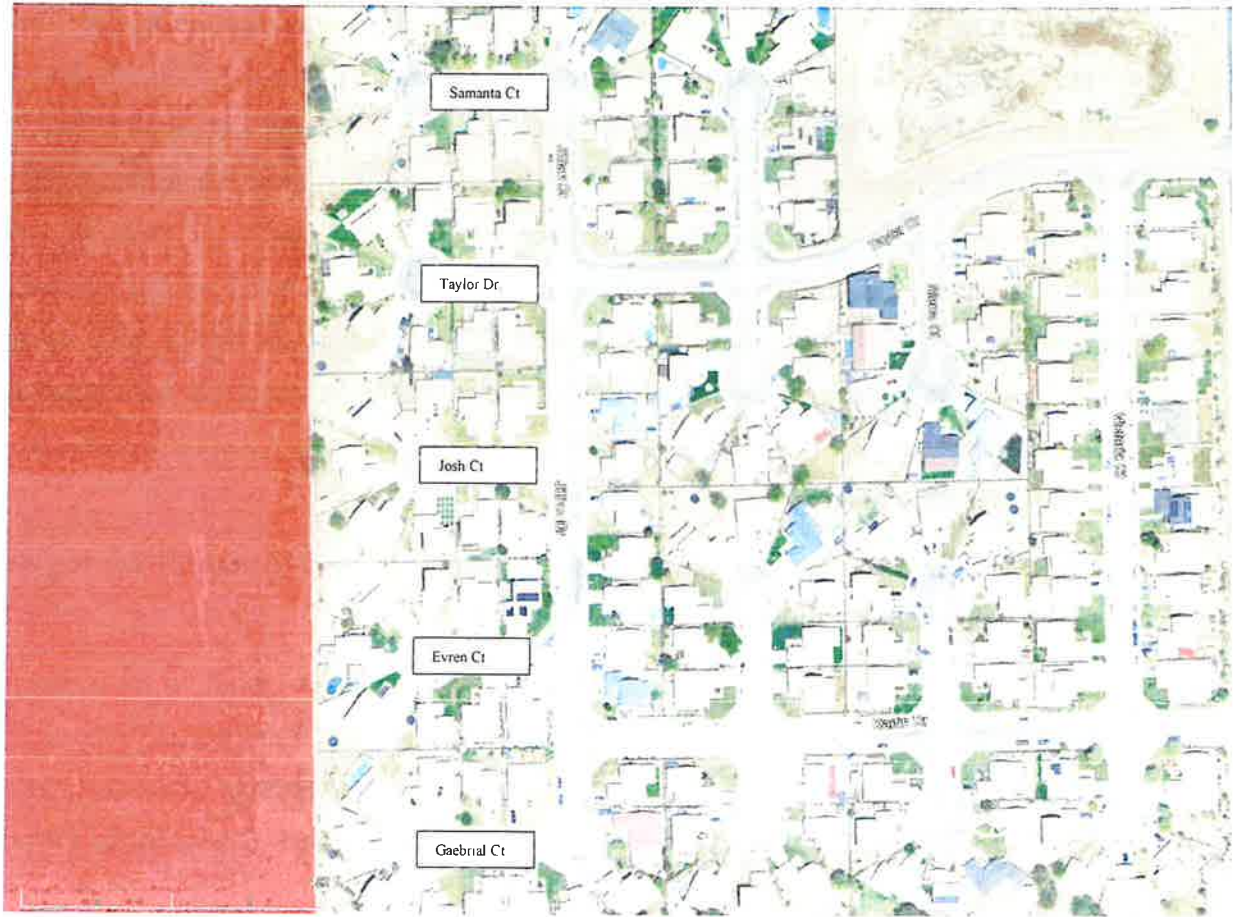
The Staff Report identifies by Aten Road to the north, Clark Road to the west, active agricultural lands to the south, and the U.S. Border Patrol Station, El Centro Sector to the east. The Report does not identify all of the residential properties abutting the Project Site. The eastern boundary of the Project Site joins properties on Gaebrial Court, Evern Court, Josh Court, Taylor Drive, and Samantha Court

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<sup>4</sup> California Department of Toxics Substance Control ("DTSC"), EnviroStor, Caspian Inc. (13280019) 287 West Aten Road, El Centro, CA 92243, Imperial County, available at: [https://www.envirostor.dtsc.ca.gov/public/profile\\_report?global\\_id=13280019](https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=13280019).

<sup>5</sup> California Department of Toxics Substance Control ("DTSC"), EnviroStor, Caspian Inc. (13280019) 287 West Aten Road, El Centro, CA 92243, Imperial County, available at: [https://www.envirostor.dtsc.ca.gov/public/profile\\_report?global\\_id=13280019](https://www.envirostor.dtsc.ca.gov/public/profile_report?global_id=13280019).

<sup>6</sup> County of Imperial, Land Use Covenant and Agreement Environmental Restrictions County of Imperial Assessor's Parcel Number: 044-220-045, Aten Properties LLC Site (Former Caspian Inc. Site) Site Code 401693 (April 23, 2014), available at: [https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable\\_documents%2F9461440861%2FREcorded%20LUC%20Final.pdf](https://www.envirostor.dtsc.ca.gov/getfile?filename=/public%2Fdeliverable_documents%2F9461440861%2FREcorded%20LUC%20Final.pdf).



**Figure 3: Closest Residences To Project Site**

The failure to consider these residences and the sensitive receptors that will be present is an oversight in the Staff's analysis of the Project. The mass grading that will be required of the Project Site, along with the emissions from the back-up generators that will be installed onsite will directly impact the residents of the adjacent residences to the Project Site. The Staff Report clearly has failed to analyze those foreseeable concerns in the Project analysis. This must be corrected in an IS and EIR for the Project.

**3. The Analysis In The Staff Report Fails To Consider The Proposed Battery Energy Storage Site (BESS) And The Potential Impacts From The BESS On Adjacent Residences.**

The Staff Report describes the Project as including an on-site Battery Energy Storage System (BESS) to support power backup. The BESS has two significant environmental impacts that are not

considered in the Staff Report. First the Staff Report fails to consider (1) accidents leading to significant on-site and off-site property damage and (2) increases in pollutant emissions. BESS accidents are a foreseeable hazard that has not been evaluated in the Staff Report. The National Fire Protection Association (NFPA)<sup>7</sup> has identified a number of risks associated with BESS that must be addressed in an IS and EIR. Those risks include:

- Thermal runaway (rapid uncontrolled release of heat energy, resulting in fire or explosion);
- Shock hazard from stranded energy;
- Release of toxic and flammable gases;
- Deep-seated fires within metal or plastic casing, blocking firefighting agents;
- Mechanical abuse;
- Thermal abuse from exposure to external heat source;
- Electrical abuse from overcharging; and
- Environmental impacts including rodent damage to wiring, extreme heat, and floods.

The most frequently used storage batteries for BESS are lithium ion batteries. The chemical composition of the lithium-ion batteries based on current lithium-ion technology includes cobalt oxide; manganese dioxide; nickel oxide; carbon; unidentified electrolyte; polyvinylidene fluoride; aluminum foil; copper foil; aluminum; and inert materials.<sup>8</sup> The presence of these toxic metals at the Project Site are not considered in the Staff Report.

A well-documented history of fires of existing battery storage facilities demonstrates the severe risk that lithium-ion battery fires pose. Fires have occurred at many battery storage facilities around the world, including in the European Union (e.g., Belgium).<sup>9,10</sup> Fires have also occurred at 23 battery storage facilities in South Korea, caused by faulty temperature control, negligence during construction, operational negligence, failure to separate the PCS

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<sup>7</sup> NFPA, Energy Storage Systems Safety Fact Sheet, June 2020.

<sup>8</sup> Imperial County Planning and Development Services, Draft Supplemental Environmental Impact Report. Prepared by Burns McDonnell, July 15, 2019, pdf 78, Sec. 2.6.3.9; <http://www.icpds.com/?pid=6973>.

<sup>9</sup> Jason Deign, Engie Investigates Source of Belgian Battery Blaze, December 18, 2017; <https://www.greentechmedia.com/articles/read/engie-investigates-source-of-belgian-battery-blaze#gs.y25569>.

<sup>10</sup> Patrice Nigon and others, Battery Storage, IMIA Working Group Paper 112 (19), pdf 55, 58; <https://www.imia.com/wp-content/uploads/2020/01/IMIA-WGP-112-19-Battery-Storage.pdf>.

system and batteries, faulty battery management, system control, or battery protection systems.<sup>11</sup>

It must be noted that fires have not been limited to sites overseas. Several battery fires have occurred in Hawaii<sup>12</sup> and Arizona.<sup>13</sup> These fires resulted in significant impacts that are not addressed in the Staff Report, including significant worker and public health impacts from hazardous air pollutants (HAPs) and damage to the adjacent facilities. First responders and firefighters are a significant at-risk population when batteries rupture after exposure to extreme heat/fire, leaking corrosive materials, and/or emit toxic fumes, regardless of the specific battery technology. Burning batteries may emit acrid smoke, irritating fumes, and toxic fumes of fluoride, resulting in acute and chronic health effects in responding firefighters (and any nearby workers and residents). Acute health hazards include chemical inhalation burns and damage to lungs, eyes, and skin. Cobalt, present in lithium-ion batteries, is a suspected human carcinogen.<sup>14</sup>

The Staff Report fails to consider the battery composition and the hazards from the rupture of the batteries in its analysis of the Project. The County must prepare an IS and EIR for the Project to address these significant impacts.

#### **4. The Analysis In The Staff Report Fails To Consider The Emissions From The Natural Gas Back Up Generators On Site And The Potential Air Quality Impacts From Them**

The Staff Report fails to consider the emissions from the natural gas back up generators that will be onsite. According to the Site Plans a total of 132-Caterpillar G3520 Natural Gas Generators.

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<sup>11</sup> Andy Colthorpe, Korea's ESS Fires: Batteries Not to Blame But Industry Takes Hit Anyway, *PVTech*, June 19, 2019; <https://www.energy-storage.news/news/koreas-ess-fires-batteries-not-to-blame-but-industry-takes-hit-anyway>.

<sup>12</sup> Two fires occurred at First Wind's 30 MW Kahuku project in Hawaii in 2012. The first fire broke out in March 2011. The second fire, on August 3, 2012.

<sup>13</sup> On April 19, 2019, in Surprise, Arizona at the APS McMicken Energy Storage Facility, equipped with two 2-MW AES Advancion battery arrays. An explosion in the McMicken battery system led to a fire.

<sup>14</sup> Honeywell, Material Safety Data Sheet, Lithium-Ion Battery; <https://honeywellaidc.force.com/supportppr/s/article/Lithium-ION-battery-specifications-MSDS-shipping-LI-ION-batteries>.

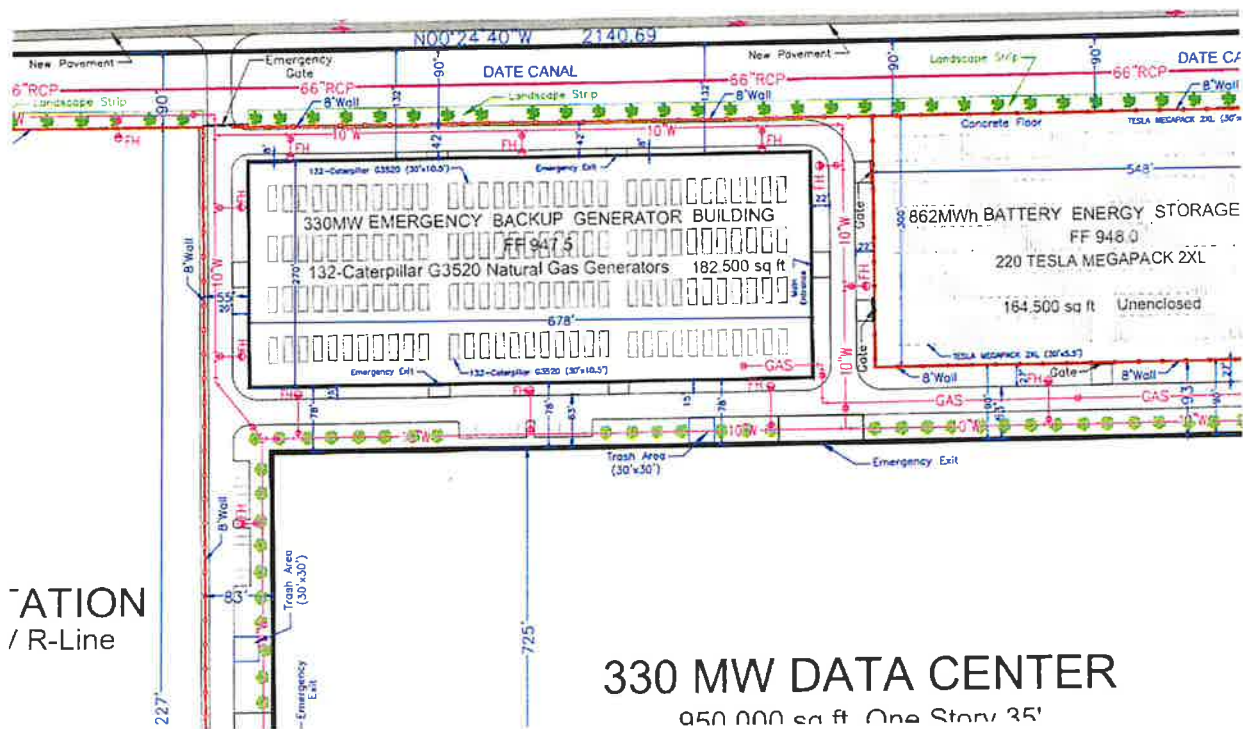


Figure 4: Site Plan

The natural gas back up generators will emit on the low end about 1.0 grams/ brake horse power (bhp)-hour of oxides of nitrogen (NO<sub>x</sub>) and 0.7 g/bhp-hr of volatile organic compounds (VOCs).<sup>15</sup> The generators listed (the G3520) are usually sized as 3120 ekW which is equal to approximately 4200 brake horsepower (bhp). This means that each generator running 1 hour would produce about 4200 grams of NO<sub>x</sub> and 2,900 grams of VOCs. All 132 generators running together for one hour would produce 554,400 grams (554 kilograms or 1,200 lbs) of NO<sub>x</sub> and 382,800 grams (382.8 kilograms or 842.16 lbs) of VOCs. This emission amount would violate the Imperial Valley APCD's Tier II threshold for both compounds and would require preparation of an EIR.

<sup>15</sup> Letter from Sebastian Rucci, Imperial Valley Computer Manufacturing, LLC, AIR QUALITY REGULATORY CONSTRAINTS ON EMERGENCY STANDBY NATURAL GAS GENERATORS PERMITTING IN IMPERIAL COUNTY, CALIFORNIA, available at: <https://imperialdatacenter.com/wp-content/uploads/2025/12/Generators-2-Report-by-IVCM.pdf>.

## 5. The Staff Report Noted That All Wastewater Would Be Treated At A Proposed Wastewater Treatment Facility Yet Fails To Consider The Health Impacts From Exposure To Odorous Compounds From The Treatment Plant

The Project's proposed wastewater treatment plant (WWTP) could emit Volatile Organic Compounds (VOCs), Hydrogen Sulfide (H<sub>2</sub>S), Ammonia (NH<sub>3</sub>), and Methane (CH<sub>4</sub>), but the Staff Report fails to address these potential emissions. Noxious emissions from the sewer treatment plant would directly adversely affect residents within approximately 200 feet to the east of the Project site.<sup>16</sup>

Literature frequently cites volatile odorous components that are detected during the waste transfer or landfill process, such as halocarbons (chlorotrifluoromethane, fluorotrichloromethane, dichloromethane, etc.) and aromatics (ethylbenzene, benzene, toluene, etc.), are one of the critical contributors to global warming and are a threat to human health<sup>17,18,19,20</sup>.

The ability to perceive odors from volatile chemicals often provides information about the surrounding environment. Ambient odors can influence the assessment of indoor and outdoor air quality<sup>21</sup>, can serve as a warning agent in the home<sup>22,23</sup>, and can affect moods and psychological health<sup>24, 25, 26</sup>. Unpleasant odors have been historically considered as indicators of potential risks to

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<sup>16</sup> Google Maps, 2025.

<sup>17</sup> Z. cheng, et al. 2020. Variations and environmental impacts of odor emissions along the waste stream. *Journal of Hazardous Materials*. 384. 120912, ISSN 0304-3894, <https://doi.org/10.1016/j.jhazmat.2019.120912>.

<sup>18</sup> Z.Cheng, et al. 2019. The identification and health risk assessment of odor emissions from waste landfilling and composting *Sci. Total Environ.*, 649: 1038-1044, [10.1016/j.scitotenv.2018.08.230](https://doi.org/10.1016/j.scitotenv.2018.08.230)

<sup>19</sup> Liu, Y. et al. 2016. Health risk impacts analysis of fugitive aromatic compounds emissions from the working face of a municipal solid waste landfill in China, *Environ. Int.*,97: 15-27

<sup>20</sup> Liu, Y. et al. 2017. Fugitive halocarbon emissions from working face of municipal solid waste landfills in China *Waste Manage.*, 70: 149-157

<sup>21</sup> Cain, W.S. (1987). Indoor air as a source of annoyance. In Koelega, H.S. (ed.), *Environmental Annoyance: Characterization, Measurement and Control*. Elsevier, Amsterdam

<sup>22</sup> Cain, W.S. and Turk, A. (1985). Smell of danger: an analysis of LP-gas odorization. *Am. Ind. Hyg. Assoc. J.* **46**, 115-126.

<sup>23</sup> Ames, R.G., Howd, R.A. and Doherty, L. (1993). Community exposure to a paraquat drift. *Arch. Envir. Hth.* **48**, 47-52.

<sup>24</sup> Knasko, S.C. (1992). Ambient odor's effect on creativity, mood, and perceived health. *Chem. Senses.* **17**, 27-35.

<sup>25</sup> Knasko, S.C. (1993). Performance, mood, and health during exposure to intermittent odors. *Arch. Envir. Hth.* **48**, 305-308.

<sup>26</sup> Schiffman, S.S., Miller, E.A.S., Suggs, M.S. and Graham, B.G. (1995). The effect of environmental odors emanating from commercial swine operations on the mood of nearby residents. *Brain Res. Bull.*, **37**, 369-375.

human health; the odor sensations themselves may also cause health symptoms. Common health effects include: eye, nose and throat irritation, headaches, nausea, and nasal congestion.

Unpleasant odors are predominantly warnings of potential health effects of elevated concentrations of VOCs.<sup>27</sup> Odor properties can often be detected at much lower concentrations than those capable of eliciting upper respiratory tract irritation<sup>28</sup>. Persons who are continually exposed may experience odor fatigue and not perceive the warning sign that may lead to potential health harms. Organisms possess a means of adjusting the response of their olfactory system in order to maintain high sensitivity by remain responsive to a variety of odorants and concentrations.

Unpleasant odors can also impair mood leading to increased levels of tension, depression, anger, fatigue and confusion. Conditioned aversions may play a role in perceptions and health symptoms induced by malodors. If a malodor has been previously associated with health symptoms, the odor alone may subsequently recreate these symptoms in the absence of the allergy<sup>29</sup>. Ambient odors can provoke a wide distribution of reactions. Variations are most often attributed to differences in individual sensitivity. Behavioral responses for a single individual and among individuals exposed to the same odor over time can be greatly varied. Cognitive processes may be modifying the over perception of odor exposure. Some individuals may exhibit extreme sensitivity and adaptation to environmental odors does not occur<sup>30</sup>.

Even a cursory analysis from the County would have identified these potentially significant health impacts from the release of chemicals from the WWTP. The County should require a full analysis of the odorous chemicals likely to be emitted from the WWTP on the residents of the Project in an IS and an EIR.

## **6. A Basic Air Quality Analysis Of The Construction Phase Of The Project Shows That The Project Would Exceed Emission Levels Of VOCs and PM10 Without Mitigation**

Using the project design of a 950,000 square foot building, I have constructed a basic air quality analysis of the Project's unmitigated construction emissions. The results are attached as an Exhibit to this letter. Using the default factors in the latest CalEEMOD model, the calculated maximum daily

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<sup>27</sup> Dalton P. (2003). Upper airway irritation, odor perception, and health risk due to airborne chemicals. *Toxicology Letters* **140-141**: 239-248.

<sup>28</sup> Dalton P. (2003). Upper airway irritation, odor perception, and health risk due to airborne chemicals. *Toxicology Letters* **140-141**: 239-248.

<sup>29</sup> Schiffman S and Williams CM. (2005). Science of Odor as a Potential Health Issue. *J. Environ. Qual.* **34**:129-138

<sup>30</sup> Dalton, P. (1996). Odor perception and beliefs about risk. *Chem. Senses* **21**: 447-458.

emission rates of VOCs (expressed as reactive organic gases or ROGs), particulate matter less than or equal to 10 microns (PM<sub>10</sub>), and particulate matter less than or equal to 2.5 microns (PM<sub>2.5</sub>) would exceed the Imperial County APCD's CEQA Significance Thresholds of 137 lbs per day for VOCs and PM<sub>10</sub> and 550 lbs for PM<sub>2.5</sub>. According to Table 2.1 from the attached CalEEMod analysis, ROG emissions would reach a maximum of 661 lbs per day, PM<sub>10</sub> emissions would reach a maximum of 6,605 lbs per day, and the PM<sub>2.5</sub> emissions would reach a maximum of 660 lbs/day during the construction phase of the Project. The Project clearly will have significant air quality impacts that must be assessed in an IS and EIR.

### **Conclusion**

The facts identified and referenced in this comment letter lead me to reasonably conclude that the Project will result in significant, unmitigated impacts if allowed to proceed.

Sincerely,

A handwritten signature in black ink, appearing to read "J. J. Co." with a stylized flourish at the end.

Exhibit A

CALEEMOD Analysis Summary Of Construction Phase Of Building

# Imperial County Data Center Summary Report

## Table of Contents

1. Basic Project Information
  - 1.1. Basic Project Information
  - 1.2. Land Use Types
  - 1.3. User-Selected Emission Reduction Measures by Emissions Sector
2. Emissions Summary
  - 2.1. Construction Emissions Compared Against Thresholds
6. Climate Risk Detailed Report
  - 6.2. Initial Climate Risk Scores
  - 6.3. Adjusted Climate Risk Scores
7. Health and Equity Details
  - 7.3. Overall Health & Equity Scores
  - 7.5. Evaluation Scorecard

## 1. Basic Project Information

### 1.1. Basic Project Information

Data Field	Value
Project Name	Imperial County Data Center
Construction Start Date	1/1/2026
Lead Agency	—
Land Use Scale	Project/site
Analysis Level for Defaults	County
Windspeed (m/s)	3.4
Precipitation (days)	4.8
Location	2304 Clark Rd, El Centro, CA 92243, USA
County	Imperial
City	Unincorporated
Air District	Imperial County APCD
Air Basin	Salton Sea
TAZ	5606
EDFZ	19
Electric Utility	Imperial Irrigation District
Gas Utility	Southern California Gas
App Version	2022.1.1.35

### 1.2. Land Use Types

Land Use Subtype	Size	Unit	Lot Acreage	Building Area (sq ft)	Landscape Area (sq ft)	Special Landscape Area (sq ft)	Population	Description
General Light Industry	950	1000sqft	22	950,000	—	—	—	—

1.3. User-Selected Emission Reduction Measures by Emissions Sector

No measures selected

2. Emissions Summary

2.1. Construction Emissions Compared Against Thresholds

Criteria Pollutants (lb/day for daily, ton/yr for annual) and GHGs (lb/day for daily, MT/yr for annual)

Un/Mit.	TOG	ROG	NOx	CO	SO2	PM10E	PM10D	PM10T	PM2.5E	PM2.5D	PM2.5T	BCO2	NBCO2	CO2T	CH4	N2O	R	CO2e	
Daily, Summer (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	4.2	3.7	27	58	0.06	1.1	6,604	6,605	1.0	660	660	—	13,234	13,234	0.39	0.88	32	13,538	
Daily, Winter (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	661	661	29	40	0.06	1.2	6,604	6,605	1.1	660	660	—	12,304	12,304	0.41	0.88	0.83	12,578	
Average Daily (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	38	38	14	29	0.04	0.43	3,501	3,502	0.39	350	351	—	7,737	7,737	0.25	0.48	7.4	7,892	
Annual (Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Unmit.	6.9	6.9	2.6	5.3	0.01	0.08	639	639	0.07	64	64	—	1,281	1,281	0.04	0.08	1.2	1,307	
Exceeds (Daily Max)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Threshold	—	137	137	549	137	—	137	—	—	—	550	—	—	—	—	—	—	—	—
Unmit.	—	Yes	No	No	No	—	Yes	—	—	—	Yes	—	—	—	—	—	—	—	—
Exceeds (Average Daily)	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—

Threshold	137	137	549	137	137	550										
Unmit.	No	No	No	No	Yes	No										

## 6. Climate Risk Detailed Report

### 6.2. Initial Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	1	0	0	N/A
Extreme Precipitation	N/A	N/A	N/A	N/A
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	N/A	N/A	N/A	N/A
Flooding	N/A	N/A	N/A	N/A
Drought	0	0	0	N/A
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	N/A	N/A	N/A	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores do not include implementation of climate risk reduction measures.

### 6.3. Adjusted Climate Risk Scores

Climate Hazard	Exposure Score	Sensitivity Score	Adaptive Capacity Score	Vulnerability Score
Temperature and Extreme Heat	1	1	1	2
Extreme Precipitation	N/A	N/A	N/A	N/A
Sea Level Rise	N/A	N/A	N/A	N/A
Wildfire	N/A	N/A	N/A	N/A
Flooding	N/A	N/A	N/A	N/A

Drought	1	1	1	2
Snowpack Reduction	N/A	N/A	N/A	N/A
Air Quality Degradation	N/A	N/A	N/A	N/A

The sensitivity score reflects the extent to which a project would be adversely affected by exposure to a climate hazard. Exposure is rated on a scale of 1 to 5, with a score of 5 representing the greatest exposure.

The adaptive capacity of a project refers to its ability to manage and reduce vulnerabilities from projected climate hazards. Adaptive capacity is rated on a scale of 1 to 5, with a score of 5 representing the greatest ability to adapt.

The overall vulnerability scores are calculated based on the potential impacts and adaptive capacity assessments for each hazard. Scores include implementation of climate risk reduction measures.

## 7. Health and Equity Details

### 7.3. Overall Health & Equity Scores

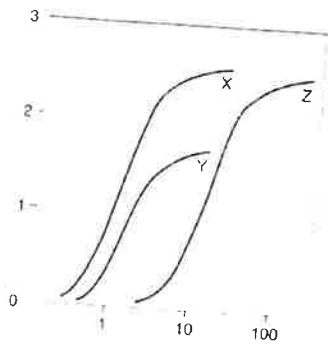
Metric	Result for Project Census Tract
CalEnviroScreen 4.0 Score for Project Location (a)	62
Healthy Places Index Score for Project Location (b)	58
Project Located in a Designated Disadvantaged Community (Senate Bill 535)	No
Project Located in a Low-Income Community (Assembly Bill 1550)	No
Project Located in a Community Air Protection Program Community (Assembly Bill 617)	El Centro Corridor

a: The maximum CalEnviroScreen score is 100. A high score (i.e., greater than 50) reflects a higher pollution burden compared to other census tracts in the state.

b: The maximum Health Places Index score is 100. A high score (i.e., greater than 50) reflects healthier community conditions compared to other census tracts in the state.

### 7.5. Evaluation Scorecard

Health & Equity Evaluation Scorecard not completed.



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## ***James J. J. Clark, Ph.D.***

*Principal Toxicologist*

**Toxicology/Exposure Assessment Modeling**

**Risk Assessment/Analysis/Dispersion Modeling**

### **Education:**

Ph.D., Environmental Health Science, University of California, 1995

M.S., Environmental Health Science, University of California, 1993

B.S., Biophysical and Biochemical Sciences, University of Houston, 1987

### **Professional Experience:**

Dr. Clark is a well recognized toxicologist, air modeler, and health scientist. He has 20 years of experience in researching the effects of environmental contaminants on human health including environmental fate and transport modeling (SCREEN3, AEROMOD, ISCST3, Johnson-Ettinger Vapor Intrusion Modeling); exposure assessment modeling (partitioning of contaminants in the environment as well as PBPK modeling); conducting and managing human health risk assessments for regulatory compliance and risk-based clean-up levels; and toxicological and medical literature research.

Significant projects performed by Dr. Clark include the following:

### **LITIGATION SUPPORT**

**Case: James Harold Caygle, et al, v. Drummond Company, Inc. Circuit Court for the Tenth Judicial Circuit, Jefferson County, Alabama. Civil Action. CV-2009**

**Client: Environmental Litigation Group, Birmingham, Alabama**

Dr. Clark performed an air quality assessment of emissions from a coke factory located in Tarrant, Alabama. The assessment reviewed include a comprehensive review of air quality standards, measured concentrations of pollutants from factory, an inspection of the facility and detailed assessment of the impacts on the community. The results of the assessment and literature have been provided in a declaration to the court.

**PC ORIGINAL PKG**

**Case Result: Settlement in favor of plaintiff.**

**Case: Rose Roper V. Nissan North America, et al. Superior Court of the State Of California for the County Of Los Angeles – Central Civil West. Civil Action. NC041739**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to multiple chemicals, including benzene, who later developed a respiratory distress. A review of the individual's medical and occupational history was performed to prepare an exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to respiratory irritants. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: O'Neil V. Sherwin Williams, et al. United States District Court Central District of California**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to petroleum distillates who later developed a bladder cancer. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Summary judgment for defendants.**

**Case: Moore V., Shell Oil Company, et al. Superior Court of the State Of California for the County Of Los Angeles**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to chemicals while benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**PC ORIGINAL PKG**

**Case Result: Settlement in favor of plaintiff.**

**Case: Raymond Saltonstall V. Fuller O'Brien, KILZ, and Zinsser, et al. United States District Court Central District of California**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to benzene who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a quantitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Richard Boyer and Elizabeth Boyer, husband and wife, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-7G.**

**Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.**

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**PC ORIGINAL PKG**

**Case: JoAnne R. Cook, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-9R**

**Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.**

Dr. Clark performed a toxicological assessment of an individual exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Patrick Allen And Susan Allen, husband and wife, and Andrew Allen, a minor, V. DESCO Corporation, et al. Circuit Court of Brooke County, West Virginia. Civil Action Number 04-C-W**

**Client: Frankovitch, Anetakis, Colantonio & Simon, Morgantown, West Virginia.**

Dr. Clark performed a toxicological assessment of a family exposed to chlorinated solvents released from the defendant's facility into local drinking water supplies. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to chlorinated solvents. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Michael Fahey, Susan Fahey V. Atlantic Richfield Company, et al. United States District Court Central District of California Civil Action Number CV-06 7109 JCL.**

**PC ORIGINAL PKG**

**Client: Rose, Klein, Marias, LLP, Long Beach, California**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Settlement in favor of plaintiff.**

**Case: Constance Acevedo, et al., V. California Spray-Chemical Company, et al., Superior Court of the State Of California, County Of Santa Cruz. Case No. CV 146344**

Dr. Clark performed a comprehensive exposure assessment of community members exposed to toxic metals from a former lead arsenate manufacturing facility. The former manufacturing site had undergone a DTSC mandated removal action/remediation for the presence of the toxic metals at the site. Opinions were presented regarding the elevated levels of arsenic and lead (in attic dust and soils) found throughout the community and the potential for harm to the plaintiffs in question.

**Case Result: Settlement in favor of defendant.**

**Case: Michael Nawrocki V. The Coastal Corporation, Kurk Fuel Company, Pautler Oil Service, State of New York Supreme Court, County of Erie, Index Number I2001-11247**

**Client: Richard G. Berger Attorney At Law, Buffalo, New York**

Dr. Clark performed a toxicological assessment of an individual occupationally exposed to refined petroleum hydrocarbons who later developed a leukogenic disease. A review of the individual's medical and occupational history was performed to prepare a qualitative exposure assessment. The exposure assessment was evaluated against the

**PC ORIGINAL PKG**

known outcomes in published literature to exposure to refined petroleum hydrocarbons. The results of the assessment and literature have been provided in a declaration to the court.

**Case Result: Judgement in favor of defendant.**

#### SELECTED AIR MODELING RESEARCH/PROJECTS

**Client – Confidential**

Dr. Clark performed a comprehensive evaluation of criteria pollutants, air toxins, and particulate matter emissions from a carbon black production facility to determine the impacts on the surrounding communities. The results of the dispersion model will be used to estimate acute and chronic exposure concentrations to multiple contaminants and will be incorporated into a comprehensive risk evaluation.

**Client – Confidential**

Dr. Clark performed a comprehensive evaluation of air toxins and particulate matter emissions from a railroad tie manufacturing facility to determine the impacts on the surrounding communities. The results of the dispersion model have been used to estimate acute and chronic exposure concentrations to multiple contaminants and have been incorporated into a comprehensive risk evaluation.

**Client – Los Angeles Alliance for a New Economy (LAANE), Los Angeles, California**

Dr. Clark is advising the LAANE on air quality issues related to current flight operations at the Los Angeles International Airport (LAX) operated by the Los Angeles World Airport (LAWA) Authority. He is working with the LAANE and LAX staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

**Client – City of Santa Monica, Santa Monica, California**

Dr. Clark is advising the City of Santa Monica on air quality issues related to current flight operations at the facility. He is working with the City staff to develop a comprehensive strategy for meeting local community concerns over emissions from flight operations and to engage federal agencies on the issue of local impacts of community airports.

**Client: Omnitrans, San Bernardino, California**

Dr. Clark managed a public health survey of three communities near transit fueling facilities in San Bernardino and Montclair California in compliance with California Senate Bill 1927. The survey included an epidemiological survey of the effected communities, emission surveys of local businesses, dispersion modeling to determine potential emission concentrations within the communities, and a comprehensive risk assessment of each community. The results of the study were presented to the Governor as mandated by Senate Bill 1927.

**Client: Confidential, San Francisco, California**

Summarized cancer types associated with exposure to metals and smoking. Researched the specific types of cancers associated with exposure to metals and smoking. Provided causation analysis of the association between cancer types and exposure for use by non-public health professionals.

**Client: Confidential, Minneapolis, Minnesota**

Prepared human health risk assessment of workers exposed to VOCs from neighboring petroleum storage/transport facility. Reviewed the systems in place for distribution of petroleum hydrocarbons to identify chemicals of concern (COCs), prepared comprehensive toxicological summaries of COCs, and quantified potential risks from carcinogens and non-carcinogens to receptors at or adjacent to site. This evaluation was used in the support of litigation.

**Client – United Kingdom Environmental Agency**

Dr. Clark is part of team that performed comprehensive evaluation of soil vapor intrusion of VOCs from former landfill adjacent residences for the United Kingdom's Environment

Agency. The evaluation included collection of liquid and soil vapor samples at site, modeling of vapor migration using the Johnson Ettinger Vapor Intrusion model, and calculation of site-specific health based vapor thresholds for chlorinated solvents, aromatic hydrocarbons, and semi-volatile organic compounds. The evaluation also included a detailed evaluation of the use, chemical characteristics, fate and transport, and toxicology of chemicals of concern (COC). The results of the evaluation have been used as a briefing tool for public health professionals.

#### EMERGING/PERSISTENT CONTAMINANT RESEARCH/PROJECTS

**Client: Ameren Services, St. Louis, Missouri**

Managed the preparation of a comprehensive human health risk assessment of workers and residents at or near an NPL site in Missouri. The former operations at the Property included the servicing and repair of electrical transformers, which resulted in soils and groundwater beneath the Property and adjacent land becoming impacted with PCB and chlorinated solvent compounds. The results were submitted to U.S. EPA for evaluation and will be used in the final ROD.

**Client: City of Santa Clarita, Santa Clarita, California**

Dr. Clark is managing the oversight of the characterization, remediation and development activities of a former 1,000 acre munitions manufacturing facility for the City of Santa Clarita. The site is impacted with a number of contaminants including perchlorate, unexploded ordinance, and volatile organic compounds (VOCs). The site is currently under a number of regulatory consent orders, including an Imminent and Substantial Endangerment Order. Dr. Clark is assisting the impacted municipality with the development of remediation strategies, interaction with the responsible parties and stakeholders, as well as interfacing with the regulatory agency responsible for oversight of the site cleanup.

**Client: Confidential, Los Angeles, California**

Prepared comprehensive evaluation of perchlorate in environment. Dr. Clark evaluated the production, use, chemical characteristics, fate and transport, toxicology, and remediation of perchlorate. Perchlorates form the basis of solid rocket fuels and have recently been detected in water supplies in the United States. The results of this research

were presented to the USEPA, National GroundWater, and ultimately published in a recent book entitled *Perchlorate in the Environment*.

**Client – Confidential, Los Angeles, California**

Dr. Clark is performing a comprehensive review of the potential for pharmaceuticals and their by-products to impact groundwater and surface water supplies. This evaluation will include a review if available data on the history of pharmaceutical production in the United States; the chemical characteristics of various pharmaceuticals; environmental fate and transport; uptake by xenobiotics; the potential effects of pharmaceuticals on water treatment systems; and the potential threat to public health. The results of the evaluation may be used as a briefing tool for non-public health professionals.

PUBLIC HEALTH/TOXICOLOGY

**Client: Brayton Purcell, Novato, California**

Dr. Clark performed a toxicological assessment of residents exposed to methyl-tertiary butyl ether (MTBE) from leaking underground storage tanks (LUSTs) adjacent to the subject property. The symptomology of residents and guests of the subject property were evaluated against the known outcomes in published literature to exposure to MTBE. The study found that residents had been exposed to MTBE in their drinking water; that concentrations of MTBE detected at the site were above regulatory guidelines; and, that the symptoms and outcomes expressed by residents and guests were consistent with symptoms and outcomes documented in published literature.

**Client: Confidential, San Francisco, California**

Identified and analyzed fifty years of epidemiological literature on workplace exposures to heavy metals. This research resulted in a summary of the types of cancer and non-cancer diseases associated with occupational exposure to chromium as well as the mortality and morbidity rates.

**Client: Confidential, San Francisco, California**

Summarized major public health research in United States. Identified major public health research efforts within United States over last twenty years. Results were used as a briefing tool for non-public health professionals.

**Client: Confidential, San Francisco, California**

Quantified the potential multi-pathway dose received by humans from a pesticide applied indoors. Part of team that developed exposure model and evaluated exposure concentrations in a comprehensive report on the plausible range of doses received by a specific person. This evaluation was used in the support of litigation.

**Client: Covanta Energy, Westwood, California**

Evaluated health risk from metals in biosolids applied as soil amendment on agricultural lands. The biosolids were created at a forest waste cogeneration facility using 96% whole tree wood chips and 4 percent green waste. Mass loading calculations were used to estimate Cr(VI) concentrations in agricultural soils based on a maximum loading rate of 40 tons of biomass per acre of agricultural soil. The results of the study were used by the Regulatory agency to determine that the application of biosolids did not constitute a health risk to workers applying the biosolids or to residences near the agricultural lands.

**Client – United Kingdom Environmental Agency**

Oversaw a comprehensive toxicological evaluation of methyl-*tertiary* butyl ether (MtBE) for the United Kingdom's Environment Agency. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MtBE. The results of the evaluation have been used as a briefing tool for public health professionals.

**Client – Confidential, Los Angeles, California**

Prepared comprehensive evaluation of *tertiary* butyl alcohol (TBA) in municipal drinking water system. TBA is the primary breakdown product of MtBE, and is suspected to be the primary cause of MtBE toxicity. This evaluation will include available information on the production, use, chemical characteristics, fate and transport in the environment, absorption, distribution, routes of detoxification, metabolites, carcinogenic potential, and remediation of TBA. The results of the evaluation were used as a briefing tool for non-public health professionals.

**Client – Confidential, Los Angeles, California**

Prepared comprehensive evaluation of methyl *tertiary* butyl ether (MTBE) in municipal drinking water system. MTBE is a chemical added to gasoline to increase the octane

rating and to meet Federally mandated emission criteria. The evaluation included available data on the production, use, chemical characteristics, fate and transport, toxicology, and remediation of MTBE. The results of the evaluation have been used as a briefing tool for non-public health professionals.

**Client – Ministry of Environment, Lands & Parks, British Columbia**

Dr. Clark assisted in the development of water quality guidelines for methyl tertiary-butyl ether (MTBE) to protect water uses in British Columbia (BC). The water uses to be considered includes freshwater and marine life, wildlife, industrial, and agricultural (e.g., irrigation and livestock watering) water uses. Guidelines from other jurisdictions for the protection of drinking water, recreation and aesthetics were to be identified.

**Client: Confidential, Los Angeles, California**

Prepared physiologically based pharmacokinetic (PBPK) assessment of lead risk of receptors at middle school built over former industrial facility. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

**Client: Kaiser Venture Incorporated, Fontana, California**

Prepared PBPK assessment of lead risk of receptors at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

**RISK ASSESSMENTS/REMEDIAL INVESTIGATIONS**

**Client: Confidential, Atlanta, Georgia**

Researched potential exposure and health risks to community members potentially exposed to creosote, polycyclic aromatic hydrocarbons, pentachlorophenol, and dioxin compounds used at a former wood treatment facility. Prepared a comprehensive toxicological summary of the chemicals of concern, including the chemical characteristics, absorption, distribution, and carcinogenic potential. Prepared risk characterization of the carcinogenic and non-carcinogenic chemicals based on the exposure assessment to quantify the potential risk to members of the surrounding community. This evaluation was used to help settle class-action tort.

**Client: Confidential, Escondido, California**

Prepared comprehensive Preliminary Endangerment Assessment (PEA) of dense non-aqueous liquid phase hydrocarbon (chlorinated solvents) contamination at a former printed circuit board manufacturing facility. This evaluation was used for litigation support and may be used as the basis for reaching closure of the site with the lead regulatory agency.

**Client: Confidential, San Francisco, California**

Summarized epidemiological evidence for connective tissue and autoimmune diseases for product liability litigation. Identified epidemiological research efforts on the health effects of medical prostheses. This research was used in a meta-analysis of the health effects and as a briefing tool for non-public health professionals.

**Client: Confidential, Bogotá, Columbia**

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of a 13.7 hectares plastic manufacturing facility in Bogotá, Colombia. The risk assessment was used as the basis for the remedial goals and closure of the site.

**Client: Confidential, Los Angeles, California**

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally cadmium) and VOCs from soil and soil vapor at 12-acre former crude oilfield and municipal landfill. The site is currently used as a middle school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and was used as the basis for regulatory closure of site.

**Client: Confidential, Los Angeles, California**

Managed remedial investigation (RI) of heavy metals and volatile organic chemicals (VOCs) for a 15-acre former manufacturing facility. The RI investigation of the site included over 800 different sampling locations and the collection of soil, soil gas, and groundwater samples. The site is currently used as a year round school housing approximately 3,000 children. The Remedial Investigation was performed in a manner

that did not interrupt school activities and met the time restrictions placed on the project by the overseeing regulatory agency. The RI Report identified the off-site source of metals that impacted groundwater beneath the site and the sources of VOCs in soil gas and groundwater. The RI included a numerical model of vapor intrusion into the buildings at the site from the vadose zone to determine exposure concentrations and an air dispersion model of VOCs from the proposed soil vapor treatment system. The Feasibility Study for the Site is currently being drafted and may be used as the basis for granting closure of the site by DTSC.

**Client: Confidential, Los Angeles, California**

Prepared comprehensive human health risk assessment of students, staff, and residents potentially exposed to heavy metals (principally lead), VOCs, SVOCs, and PCBs from soil, soil vapor, and groundwater at 15-acre former manufacturing facility. The site is currently used as a year round school housing approximately 3,000 children. The evaluation determined that the site was safe for the current and future uses and will be basis for regulatory closure of site.

**Client: Confidential, Los Angeles, California**

Prepared comprehensive evaluation of VOC vapor intrusion into classrooms of middle school that was former 15-acre industrial facility. Using the Johnson-Ettinger Vapor Intrusion model, the evaluation determined acceptable soil gas concentrations at the site that did not pose health threat to students, staff, and residents. This evaluation is being used to determine cleanup goals and will be basis for regulatory closure of site.

**Client: Dominguez Energy, Carson, California**

Prepared comprehensive evaluation of the potential health risks associated with the redevelopment of 6-acre portion of a 500-acre oil and natural gas production facility in Carson, California. The risk assessment was used as the basis for closure of the site.

**Kaiser Ventures Incorporated, Fontana, California**

Prepared health risk assessment of semi-volatile organic chemicals and metals for a fifty-year old wastewater treatment facility used at a 1,100-acre former steel mill. This evaluation was used as the basis for granting closure of the site by lead regulatory agency.

ANR Freight - Los Angeles, California

Prepared a comprehensive Preliminary Endangerment Assessment (PEA) of petroleum hydrocarbon and metal contamination of a former freight depot. This evaluation was as the basis for reaching closure of the site with lead regulatory agency.

**Kaiser Ventures Incorporated, Fontana, California**

Prepared comprehensive health risk assessment of semi-volatile organic chemicals and metals for 23-acre parcel of a 1,100-acre former steel mill. The health risk assessment was used to determine clean up goals and as the basis for granting closure of the site by lead regulatory agency. Air dispersion modeling using ISCST3 was performed to determine downwind exposure point concentrations at sensitive receptors within a 1 kilometer radius of the site. The results of the health risk assessment were presented at a public meeting sponsored by the Department of Toxic Substances Control (DTSC) in the community potentially affected by the site.

**Unocal Corporation - Los Angeles, California**

Prepared comprehensive assessment of petroleum hydrocarbons and metals for a former petroleum service station located next to sensitive population center (elementary school). The assessment used a probabilistic approach to estimate risks to the community and was used as the basis for granting closure of the site by lead regulatory agency.

**Client: Confidential, Los Angeles, California**

Managed oversight of remedial investigation most contaminated heavy metal site in California. Lead concentrations in soil excess of 68,000,000 parts per billion (ppb) have been measured at the site. This State Superfund Site was a former hard chrome plating operation that operated for approximately 40-years.

**Client: Confidential, San Francisco, California**

Coordinator of regional monitoring program to determine background concentrations of metals in air. Acted as liaison with SCAQMD and CARB to perform co-location sampling and comparison of accepted regulatory method with ASTM methodology.

**Client: Confidential, San Francisco, California**

Analyzed historical air monitoring data for South Coast Air Basin in Southern California and potential health risks related to ambient concentrations of carcinogenic metals and volatile organic compounds. Identified and reviewed the available literature and calculated risks from toxins in South Coast Air Basin.

**IT Corporation, North Carolina**

Prepared comprehensive evaluation of potential exposure of workers to air-borne VOCs at hazardous waste storage facility under SUPERFUND cleanup decree. Assessment used in developing health based clean-up levels.

**Professional Associations**

American Public Health Association (APHA)  
Association for Environmental Health and Sciences (AEHS)  
American Chemical Society (ACS)  
California Redevelopment Association (CRA)  
International Society of Environmental Forensics (ISEF)  
Society of Environmental Toxicology and Chemistry (SETAC)

**Publications and Presentations:**

**Books and Book Chapters**

- Sullivan, P., **J.J. J. Clark**, F.J. Agardy, and P.E. Rosenfeld. (2007). *Synthetic Toxins In The Food, Water and Air of American Cities*. Elsevier, Inc. Burlington, MA.
- Sullivan, P. and **J.J. J. Clark**. 2006. *Choosing Safer Foods, A Guide To Minimizing Synthetic Chemicals In Your Diet*. Elsevier, Inc. Burlington, MA.
- Sullivan, P., Agardy, F.J., and **J.J.J. Clark**. 2005. *The Environmental Science of Drinking Water*. Elsevier, Inc. Burlington, MA.
- Sullivan, P.J., Agardy, F.J., **Clark, J.J.J.** 2002. *America's Threatened Drinking Water: Hazards and Solutions*. Trafford Publishing, Victoria B.C.
- Clark, J.J.J.** 2001. "TBA: Chemical Properties, Production & Use, Fate and Transport, Toxicology, Detection in Groundwater, and Regulatory Standards" in *Oxygenates in the Environment*. Art Diaz, Ed.. Oxford University Press: New York.
- Clark, J.J.J.** 2000. "Toxicology of Perchlorate" in *Perchlorate in the Environment*. Edward Urbansky, Ed. Kluwer/Plenum: New York.
- Clark, J.J.J.** 1995. Probabilistic Forecasting of Volatile Organic Compound Concentrations At The Soil Surface From Contaminated Groundwater. UMI.

Baker, J.; **Clark, J.J.J.**; Stanford, J.T. 1994. Ex Situ Remediation of Diesel Contaminated Railroad Sand by Soil Washing. Principles and Practices for Diesel Contaminated Soils, Volume III. P.T. Kostecki, E.J. Calabrese, and C.P.L. Barkan, eds. Amherst Scientific Publishers, Amherst, MA. pp 89-96.

#### **Journal and Proceeding Articles**

- Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008) A Statistical Analysis Of Attic Dust And Blood Lipid Concentrations Of Tetrachloro-p-Dibenzodioxin (TCDD) Toxicity Equivalency Quotients (TEQ) In Two Populations Near Wood Treatment Facilities. *Organohalogen Compounds*, Volume 70 (2008) page 002254.
- Tam L. K., Wu C. D., Clark J. J. and **Rosenfeld, P.E.** (2008) Methods For Collect Samples For Assessing Dioxins And Other Environmental Contaminants In Attic Dust: A Review. *Organohalogen Compounds*, Volume 70 (2008) page 000527
- Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** (2007). "Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." *Environmental Research*. 105:194-199.
- Rosenfeld, P.E., **Clark, J. J.**, Hensley, A.R., and Suffet, I.H. 2007. "The Use Of An Odor Wheel Classification For The Evaluation of Human Health Risk Criteria For Compost Facilities" *Water Science & Technology*. 55(5): 345-357.
- Hensley A.R., Scott, A., Rosenfeld P.E., **Clark, J.J.J.** 2006. "Dioxin Containing Attic Dust And Human Blood Samples Collected Near A Former Wood Treatment Facility." The 26th International Symposium on Halogenated Persistent Organic Pollutants – DIOXIN2006, August 21 – 25, 2006. Radisson SAS Scandinavia Hotel in Oslo Norway.
- Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2005. "The Value Of An Odor Quality Classification Scheme For Compost Facility Evaluations" The U.S. Composting Council's 13<sup>th</sup> Annual Conference January 23 - 26, 2005, Crowne Plaza Riverwalk, San Antonio, TX.
- Rosenfeld, P.E., **Clark, J. J.** and Suffet, I.H. 2004. "The Value Of An Odor Quality Classification Scheme For Urban Odor" WEFTEC 2004. 77th Annual Technical Exhibition & Conference October 2 - 6, 2004, Ernest N. Morial Convention Center, New Orleans, Louisiana.
- Clark, J.J.J.** 2003. "Manufacturing, Use, Regulation, and Occurrence of a Known Endocrine Disrupting Chemical (EDC), 2,4-Dichlorophenoxyacetic Acid (2,4-D) in California Drinking Water Supplies." National Groundwater Association Southwest Focus Conference: Water Supply and Emerging Contaminants. Minneapolis, MN. March 20, 2003.

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- Clark, J.J.J.**, Brown, A., Rodriguez, R. 1998. The Public Health Implications of MtBE and Perchlorate in Water: Risk Management Decisions for Water Purveyors. Proceedings of the National Ground Water Association, Anaheim, CA, June 3-4, 1998.
- Clark J.J.J.**, Brown, A., Ulrey, A. 1997. Impacts of Perchlorate On Drinking Water In The Western United States. U.S. EPA Symposium on Biological and Chemical Reduction of Chlorate and Perchlorate, Cincinnati, OH, December 5, 1997.
- Clark, J.J.J.**; Corbett, G.E.; Kerger, B.D.; Finley, B.L.; Paustenbach, D.J. 1996. Dermal Uptake of Hexavalent Chromium In Human Volunteers: Measures of Systemic Uptake From Immersion in Water At 22 PPM. *Toxicologist*. 30(1):14.
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# **EXHIBIT B**

PC ORIGINAL PKG



**MERG#00191 Inquiry**

**From** Luis Valenzuela <luisvalenzuela@co.imperial.ca.us>  
**Date** Tue 12/16/2025 9:38 AM  
**To** Rachel L. Levine <rlevine@adamsbroadwell.com>  
**Cc** Diana Robinson <DianaRobinson@co.imperial.ca.us>; Michael Abraham <MichaelAbraham@co.imperial.ca.us>

Good morning Rachel,

Per your request from our phone conversation yesterday, I contacted the department of Public Works, and no road abandonment application has been submitted yet. As per the wastewater treatment site plan, that is not included in this application since this is a lot merger.

Should you have any questions please feel free to contact me.

Thank you.

**Luis Valenzuela**  
Planner II  
Imperial County Planning & Development Services Dept.  
801 Main St.  
El Centro, CA 92243  
☎ (442) 265-1736  
✉ (442) 265-1735 (Fax)  
[www.icpds.com](http://www.icpds.com) [luisvalenzuela@co.imperial.ca.us](mailto:luisvalenzuela@co.imperial.ca.us)



**PC ORIGINAL PKG**

# **EXHIBIT C**

PC ORIGINAL PKG

**From:** Jose Luis Fuentes <[joseluisfuentes@co.imperial.ca.us](mailto:joseluisfuentes@co.imperial.ca.us)>  
**Sent:** Thursday, November 13, 2025 4:51 PM  
**To:** Rachel L. Levine <[rlevine@adamsbroadwell.com](mailto:rlevine@adamsbroadwell.com)>  
**Subject:** 11//2025 Request for Immediate Access to Imperial Valley Computer Manufacturing, LLC

Dear Rachel,

Happy Thursday late afternoon. Thank you for being insistent on the Request. So, I am returning the courtesy by moving you to the top of the pile.

Our Planning Department received the said request on November 12, 2025, as we had holidays in between. I am attaching the documents requested as I mentioned today in our telephone conversation. The Initial Study #25-0041 is just an internal name that our planning department uses but there are no documents. I have provided disclosable public records in the possession of the agency pursuant to Gov.Code § 7927.605 and Gov.Code § 7927.300. Just to note that the word "pending" is a problem for us "pending" are not public documents yet since they are pending to be public or not. Once accepted they might be public records or not. Reason is that if "pending" they might not be accepted and rejected and we do not keep copies of rejected, nor track rejected documents.

Make it a fabulous late afternoon.

Jose Luis Fuentes-Roman  
 CA Bar # 192236  
 Deputy County Counsel  
 Imperial County California  
 County Administration Center  
 940 Main Street, Suite 205  
 El Centro, California 92243

Desk: 442-265-1136  
 Fax: 760-353-9347  
[joseluisfuentes@co.imperial.ca.us](mailto:joseluisfuentes@co.imperial.ca.us)

# **EXHIBIT D**

PC ORIGINAL PKG



## Imperial County Planning & Development Services Planning / Building

Jim Minnick  
DIRECTOR

September 4, 2025

Imperial Valley Computer Manufacturing, LLC  
Attention: Sebastian Rucci  
16400 Pacific Coast Highway, Suite 212  
Huntington Beach, CA 92649

**SUBJECT: DESIGN REVIEW #25-0006; 291 WEST ATEN ROAD, IMPERIAL, CA 92251  
APN: 044-220-046-000**

Dear Mr. Rucci,

On August 1, 2025, the Imperial County Planning & Development Services Department received your initial Design Review submittal for the proposed 950,000-square-foot Artificial Intelligence (AI) Data Center Campus, to be located at the southeast corner of Aten and Clark Roads in Imperial, California. A revised set of plans was subsequently submitted on August 20, 2025.

Staff has completed a review of the proposed project for consistency with the Imperial County Land Use Ordinance (Title 9). Upon review, it has been determined that the proposed project would be located across five existing parcels of which are zoned **M-1-N-U** (Light Industrial, No Residential within Urban Boundaries), **M-2-U** (Medium Industrial within Urban Boundaries), and **A-2-U** (General Agricultural within Urban Boundaries). The proposed project is consistent with the current zoning. (**Exhibit "A"**)

Specifically, Pursuant to Division 5, Section 90515.01, Subsection (bbb) of the Imperial County Land Use Ordinance (Title 9), a "Data Center (within enclosed building)" is a permitted use within the M-1 (Light Industrial) zoning district. Ancillary components directly incidental to the primary data center operation—such as long-term power backup generators, electrical substation, gen-tie lines, short-term power backup battery energy storage system (BESS), water treatment skid, and cooling yard—are likewise considered permitted uses within the M-1 zoning district. Additionally, utility substations and transmission lines are permitted in the A-2 zone. (**Exhibit "B"**)

The proposed project area is bordered by parcels zoned M-2-U (Medium Industrial within Urban Boundaries) to the west, A-2-U (General Agricultural within Urban Boundaries) to the south, and by the jurisdiction of the City of Imperial to the north and east. Additionally, Aten Road and Clark Road abut the northern and western boundaries of the project site, respectively.

The proposed project layout spans multiple existing parcels and crosses the boundaries of three zoning areas. As currently designed, some of the identified uses in the layout are not fully consistent with building code requirements related to construction across property lines. Upon review, Department staff has identified several options for addressing this issue, which you may choose from. Alternatively, you are welcome to propose a different solution for staff to review and consider.

**Option 1:** You may revise the site layout to ensure that each structure is located entirely within a specific parcel where such use is permitted. This would bring the project into compliance with existing building codes and zoning regulations.

**Option 2:** Should you wish to maintain the existing layout as depicted in the submitted site plan, you would need to submit a Lot Merger and Lot Line Adjustment applications. Merging the parcels and reconfiguring exiting boundary limits would allow the project to be considered as a unified development site. These actions are necessary to consolidate all four (4) parcels comprising the AI Data Center Campus into a single, unified lot, while also dedicating a separate lot on the southern portion of the project site to accommodate the utility substation, which is intended to be conveyed to the Imperial Irrigation District. Attached, please find copies of the Lot Merger and Lot Line Adjustment applications for your reference.

Additionally, as the majority of the proposed project area is currently zoned M-1 pursuant to Section 90501.01 (Single Base Zoning Area) of the Imperial County Land Use Ordinance, the entire project site may be classified under the M-1 zoning designation following the Planning Director's findings and determinations—subject to the approval of the Lot Merger application. This is consistent with the permitted uses within the M-1 district, as the proposed AI Data Center Campus and its ancillary components are allowable under this zoning classification.

The subject property is currently regulated by Sections 90508.00, 90515.00 and 90516.00 et. al. of the Imperial County Land Use Ordinance Title 9.

Should you have additional questions, please feel free to contact the Imperial County Planning & Development Services Department at (442) 265-1736. You may also contact Gerardo A. Quero, Planner II at extension 1748 or via email at [gerardoquero@co.imperial.ca.us](mailto:gerardoquero@co.imperial.ca.us).

Sincerely,  
Jim Minnick, Director  
Planning & Development Services



By: Gerardo A. Quero  
Planner II

Exhibits:

- A. Project Parcel Descriptions
- B. Design Review

Attachments:

- a. A-2 Zoning Ordinance
- b. M-1 Zoning Ordinance
- c. M-2 Zoning Ordinance
- d. Lot Merger Application
- e. Lot Line Adjustment Application

CC: Tom DuBose @ [tom@dubosedesigngroup.com](mailto:tom@dubosedesigngroup.com)  
Sebastian Rucci @ [Sebastian@rucci.law](mailto:Sebastian@rucci.law) & [sebastian@ruccilaw.com](mailto:sebastian@ruccilaw.com)  
Jim Minnick, ICPDS Director  
Michael Abraham, AICP, Assistant Director of ICPDS  
Diana Robinson, Planning Division Manager  
Applicant @ [applicant@applicant.com](mailto:applicant@applicant.com)  
File: 10.109

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PC ORIGINAL PKG

TITLE 9

DIVISION 5: ZONING AREA ESTABLISHED

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**CHAPTER 15: M-1 (LIGHT INDUSTRIAL)**

§ 90515.00	PURPOSE AND APPLICATION
§ 90515.01	PERMITTED USES IN THE M-1 ZONE
§ 90515.02	USES PERMITTED WITH A CONDITIONAL USE PERMIT
§ 90515.03	PROHIBITED USES
§ 90515.04	MINIMUM LOT SIZE
§ 90515.05	MINIMUM LOT AREA PER DWELLING UNIT
§ 90515.06	YARDS AND SETBACKS
§ 90515.07	HEIGHT LIMIT
§ 90515.08	MINIMUM DISTANCE BETWEEN STRUCTURES
§ 90515.09	PARKING
§ 90515.10	SIGNS
§ 90515.11	LANDSCAPING

**§ 90515.00 PURPOSE AND APPLICATION**

The purpose of the M-1 (Light Industrial) Zone is to designate areas for wholesale commercial, storage, trucking, assembly type manufacturing and other similar light industrial uses. Processing or fabrication is limited to activities conducted entirely within a building, that does not emit fumes, odor, dust, smoke or gas, beyond the confines of the building within which the activity occurs, or produces significant levels of noise or vibration beyond the perimeter of the building.

**§ 90515.01 PERMITTED USES IN THE M-1 ZONE**

The following uses are permitted in the M-1 Zone provided they meet the requirements of this Title:

- a) Accessory Dwelling Unit, Caretakers Residence or Managers Residence per Section 90405.02
- b) Ambulance station
- c) Antique Store
- d) Appliance Repair store
- e) Appliance Store
- f) Art Gallery
- g) Artist Studio
- h) Auditoriums
- i) Auto Body Repair within enclosed facility
- j) Auto Leasing Store
- k) Auto Parking Garages (two (2) stories or less and enclosed)
- l) Auto Rental
- m) Auto Service Station
- n) Auto Service within enclosed facility
- o) Auto Tire Repair
- p) Auto Wash
- q) Auto Wash- self service
- r) Automobile Dealership- New (including parts)
- s) Automobile Dealership- Used (including parts)
- t) Automobile Parts and Accessories Store
- u) Automobile Tire Store including Service
- v) Bakery
- w) Ball Room
- x) Barber/Beauty

Division 5 Adopted November 24, 1998 (Amended December 16, 2003) (Amended August 3, 2004) (Amended October 31, 2006) (Amended January 29, 2008) (Amended July 2, 2013 MO#12) (Amended December 9, 2014) (Amended April 18, 2017) (Amended October 15, 2019) (Amended December 15, 2020) (Amended February 8, 2022) (Amended November 21, 2023)

- y) Bars
- z) Bath House
- aa) Bicycle Sales and Rental Service
- bb) Bingo Parlor
- cc) Boats sales, including Service and Parts
- dd) Book Store- Adult
- ee) Book Store- General
- ff) Bottled Gas Distributorship (no manufacturing or packaging)
- gg) Bowling Alley
- hh) Bus Depots
- ii) Business or Professional Office
- jj) Cafes
- kk) Card Room
- ll) Cargo Containers (provided they have an approved building permit)
- mm) Carpet Cleaning
- nn) Catering
- oo) Christmas Tree Sales
- pp) Circus or Carnival (not to exceed 5 days)
- qq) Clinic (health maintenance)
- rr) Clothing and Apparel sales, manufacturing, distribution
- ss) Clubs
- tt) Cocktail Lounges
- uu) Coffee Shop
- vv) Cold Storage facilities
- ww) College and Universities
- xx) Computer sales, repair, manufacturing
- yy) Contractors Storage Yard
- zz) Convenience Market
- aaa) Dance Hall
- bbb) Data center (within enclosed building)
- ccc) Department Store
- ddd) Discotheque
- eee) Drapery and Upholstery Store
- fff) Drug and Pharmaceutical sales and manufacturing
- ggg) Educational Institutions
- hhh) Electrical Appliance sales, repair and distribution
- iii) Electrical Equipment repair, assembly within enclosed facility
- jjj) Electronic Equipment Assembly (enclosed)
- kkk) Electrical Generation with rate and capacity not to exceed 15 kilowatts
- lll) Electrical Vehicles Charging Stations as a Primary Use
- mmm) Emergency Shelters
- nnn) Employee Housing
- ooo) Equipment and Building Materials
- ppp) Equipment- Heavy Truck, Trailer Rental
- qqq) Equipment- (small rental facility)
- rrr) Farmers Market
- sss) Fast Food preparation, sales or distribution
- ttt) Feed and fuel facility
- uuu) Financial Institution
- vvv) Fire/Police Station
- www) Floor Covering
- xxx) Florists
- yyy) Food Store
- zzz) Freight Storage Yard
- aaaa) Funeral Parlor

Division 5 Adopted November 24, 1998 (Amended December 16, 2003) (Amended August 3, 2004) (Amended October 31, 2006) (Amended January 29, 2008) (Amended July 2, 2013 MO#12) (Amended December 9, 2014) (Amended April 18, 2017) (Amended October 15, 2019) (Amended December 15, 2020) (Amended February 8, 2022) (Amended November 21, 2023)

**PC ORIGINAL PKG**

## TITLE 9

### DIVISION 5: ZONING AREA ESTABLISHED

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#### CHAPTER 16: M-2 (MEDIUM INDUSTRIAL)

§ 90516.00	PURPOSE & APPLICATION
§ 90516.01	PERMITTED USES IN THE M-2 ZONE
§ 90516.02	USES PERMITTED WITH A CONDITIONAL USE PERMIT
§ 90516.03	PROHIBITED USES
§ 90516.04	MINIMUM LOT SIZE
§ 90516.05	MINIMUM LOT AREA PER DWELLING UNIT
§ 90516.06	YARDS AND SETBACKS
§ 90516.07	HEIGHT LIMIT
§ 90516.08	MINIMUM DISTANCE BETWEEN STRUCTURES
§ 90516.09	PARKING
§ 90516.10	SIGNS
§ 90516.11	LANDSCAPING

#### § 90516.00 PURPOSE & APPLICATION

The purpose of the M-2 (Medium Industrial) zone is to designate areas for wholesale commercial, storage, trucking, assembly type manufacturing, general manufacturing, research and development, medium intensity fabrication and other similar medium intensity processing facilities. The processing or fabrication within any of these facilities is to be limited to activities conducted either entirely within a building or within securely fenced (obscured fencing) areas. Provided further that such facilities do not omit fumes, odor, dust, smoke or gas beyond the confines of the property line within which their activity occurs, or produces significant levels of noise or vibration beyond the perimeter of the site.

#### § 90516.01 PERMITTED USES IN THE M-2 ZONE

The following uses are permitted in the M-2 Zone provided they meet the requirements of this Title:

- a) Alcohol and alcoholic beverage manufacturer
- b) All M-1 uses permitted under §90515.01
- c) Asphalt and asphalt products manufacturing
- d) Automobile assembly
- e) Automobile body and fender works
- f) Automobile dismantling for used parts storage, only if operated and maintained entirely within a building
- g) Automobile painting
- h) Automobile upholstery
- i) Bag cleaning
- j) Boiler or tank works
- k) Brick, tile or terra cotta
- l) Building materials and manufacturing
- m) Candle making
- n) Carbon manufacturing
- o) Cargo Containers (provided they have an approved building permit)
- p) Celluloid or pyroxylin manufacturing
- q) Cement and cement product manufacturing
- r) Contractors equipment yards
- s) Contractors general
- t) Contractors storage yards
- u) Cotton gins or oil mills
- v) Crumb rubber processing

Division 5 Adopted November 24, 1998 (Amended December 16, 2003) (Amended August 3, 2004) (Amended October 31, 2006) (Amended January 29, 2008) (Amended July 2, 2013 MO#12) (Amended December 9, 2014) (Amended April 18, 2017) (Amended October 15, 2019) (Amended December 15, 2020) (Amended February 8, 2022) (Amended November 21, 2023)

- w) Data centers
- x) Disinfectant manufacturing
- y) Electrical Vehicles Charging Stations as a Primary Use
- z) Feed mills
- aa) Fertilizer and insecticide manufacturing
- bb) Fish and meat packing plant
- cc) Grain elevators
- dd) Graphite manufacturing
- ee) Gypsum manufacturing
- ff) House movers or wreckers
- gg) Industrial Hemp: manufacturing into semi-finished and finished products, subject to Division 4 Chapter 6 of Title 9 Land Use Ordinance and Title 14 of the Imperial County Codified Ordinance
- hh) accessory buildings and/or structures necessary to such use located on the same lot or parcel of land as the primary structure or use
- ii) Insulation materials manufacturing
- jj) Mini Storage (outside storage allowed provided it is screened)
- kk) Oil reclamation plant
- ll) Petroleum products storage
- mm) Railroad repair shop
- nn) Railroad yard
- oo) Seed mill
- pp) Solar energy extraction generation provided that it is for on-site consumption only.
- qq) Wool pulling and scouring

**§ 90516.02 USES PERMITTED ONLY WITH A CONDITIONAL USE PERMIT**

The following uses are permitted in the M-2 Zone provided they meet the requirements of this Title:

- a) Acid manufacturing
- b) Ammonia, chlorine and bleaching powder manufacturing
- c) Animal sales yards
- d) Animal slaughter plant
- e) Animal stock yards
- f) Automobile wrecking yard (operated entirely within a fenced area where all portions of the site are obscure from any adjacent parcel)
- g) Battery Storage
- h) Billboards/Off site advertising signs
- i) Blast furnace
- j) Chemical manufacturing
- k) Commercial Cannabis (All Forms), subject to Division 4 Chapter 6 of Title 9 Land Use Ordinance and Title 14 of the Imperial County Codified Ordinance
- l) Communication Towers: including radio, television, cellular, digital, along with the necessary support equipment such as receivers, transmitters, antennas, satellite dishes, relays, etc. (subject to requirements of this zone and Division 24; Section 92401 "Communications Facilities Ordinance" et al).
- m) Distillation of coal, wood or tar
- n) Fat rendering
- o) Gelatin manufacturing
- p) Glass manufacturing
- q) Incinerators
- r) Junk yards
- s) Labor camps
- t) Major facilities relating to the generation and transmission of electrical energy, provided such facilities are not, under state or federal law, to be approved exclusively by an agency, or agencies of the state and/or federal governments, and provided that such facilities shall be approved subsequent to coordination and review with the Imperial Irrigation District for electrical matters. The maximum

Division 5 Adopted November 24, 1998 (Amended December 16, 2003) (Amended August 3, 2004) (Amended October 31, 2006) (Amended January 29, 2008) (Amended July 2, 2013 MO#12) (Amended December 9, 2014) (Amended April 18, 2017) (Amended October 15, 2019) (Amended December 15, 2020) (Amended February 8, 2022) (Amended November 21, 2023)

# **EXHIBIT E**

PC ORIGINAL PKG

RECORDING REQUESTED BY:

Allen D. Haynie, Esq.  
Latham & Watkins  
701 "B" Street, Suite 2100  
San Diego, California 92101

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Document Recorded on 6/30/1994  
Recorder's Office  
County of Imperial  
Document Number: 1994015338  
Book / Page: 1774 / 1445

WHEN RECORDED, MAIL TO:

California Environmental Protection Agency  
Department of Toxic Substances Control  
Regional Office  
245 West Broadway, Suite 425  
Long Beach, California 90802  
Attention: Branch Chief, Site Mitigation

---

COVENANT  
TO RESTRICT USE OF PROPERTY  
CASPIAN, INC. SITE  
EL CENTRO, CALIFORNIA

This Covenant and Agreement ("Covenant") is made on the 29<sup>th</sup> day of June, 1994 by and between Cyrus A. Jaffari (the "Covenantor"), who is the owner of record of certain real property situated in the City of El Centro, County of Imperial, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference ("Property"), and the Department of Toxic Substances Control ("Department"), with reference to the following facts:

A. East Evaporation Pond. In connection with production of copper coated steel wire, liquid industrial waste was deposited in three evaporation ponds on the Property, including one referred to as the east evaporation pond. Samples collected from the east evaporation pond between 1980 and 1987 revealed the presence of hazardous substances, including chromium, copper, lead, zinc and nickel.

B. Complaint. On or about June 16, 1989, the State of California filed a complaint against Caspian, Inc. ("Caspian"), the entity currently possessing the right to operate on the Property, alleging, inter alia, violations of the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 et seq.

C. Consent Order. On or about September 22, 1989, the Department and Caspian entered into an Administrative Consent Order No. 890904K(IEG) ("Consent Order") whereby Caspian agreed to prepare a Remedial Investigation and Feasibility Study for the

Property and, if necessary, to implement a Remedial Action Plan ("RAP"). Pursuant to the RAP dated October 19, 1993 and the Remedial Action Plan Workplan dated May 4, 1994, Caspian agreed to install, operate, and maintain a low-permeability soil and flexible membrane composite cap ("East Pond Cap") over the east evaporation pond to prevent exposure of hazardous substances to humans and the environment. An Operations and Maintenance Agreement dated June 29, 1994 governs groundwater monitoring and maintenance of fencing and the East Pond Cap.

D. Purpose. In an effort to facilitate Caspian's compliance with the Consent Order and to implement the requirements of the RAP, and in order to protect the present or future public health and safety, Covenantor wishes to restrict the future use of that portion of the Property commonly referred to as the east evaporation pond area ("East Pond Area"), as more particularly described in Exhibit "B" attached hereto and incorporated herein by this reference, to prohibit certain uses and/or disturbance of the East Pond Cap so as to avoid potential harm to persons or property which may result from the hazardous substances that were deposited at the East Pond Area.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, Covenantor and the Department covenant and agree as follows:

## ARTICLE I

### DEFINITIONS

1.1 Department. "Department" shall mean the Department of Toxic Substances Control and shall include its successor agencies, if any.

1.2 Excavation. "Excavation" shall mean the digging out and/or the removal of soil, including landscaping.

1.3 H&SC. "H&SC" shall mean the California Health & Safety Code, as from time to time amended, revised or supplemented.

1.4 Improvements. "Improvements" shall mean all buildings, structures, roads, driveways, regrading, landscaping, bodies of water, park and playground improvements, and paved parking areas.

1.5 Occupants. "Occupants" shall mean those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to occupy any portion of the East Pond Area.

1.6 Owners. "Owners" shall mean the Covenantor or his successors in interest, including heirs, and assigns, who hold title to all or any portion of the East Pond Area.

## ARTICLE II

### GENERAL PROVISIONS

2.1 Provisions to Run With the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions, (collectively referred to as "Restrictions"), upon and subject to which the East Pond Area shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the East Pond Area, and shall apply to and bind the respective successors in interest thereof. Each and all of the Restrictions are imposed pursuant to Sections 25355.5 and 25356.1 of the Health and Safety Code and run with the land pursuant to Section 25355.5. Each and all of the Restrictions are enforceable by the Department.

2.2 Concurrence of Owners or Occupants Presumed. All purchasers, lessees, or possessors of any portion of the East Pond Area shall be deemed by their purchase, leasing, or possession of such East Pond Area, to be in accord with the foregoing and to agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors and assignees, that the Restrictions as herein established must be adhered to for the benefit of future Owners and Occupants and that their interest in the East Pond Area shall be subject to the Restrictions contained herein.

2.3 Incorporation Into Deeds and Leases. Covenantor agrees and covenants that the Restrictions set out herein shall be incorporated by reference in each and every deed and lease of any portion of the East Pond Area.

## ARTICLE III

### DEVELOPMENT, USE, AND CONVEYANCE OF THE EAST POND AREA

3.1 Restrictions on Use. Owners and Occupants promise to restrict the use of the East Pond Area as depicted in Exhibit "B" as follows:

3.1.1 The East Pond Area may be used for the following in a manner as to avoid potential harm to persons or property which may result from hazardous substances that were deposited in the East Pond Area, without restriction, except as otherwise provided under law or other provision of this Covenant:

a. Industrial and commercial uses which satisfy the requirements of paragraphs 3.1.5, 3.1.6, and 3.1.7 below;

b. Landscaped and paved areas (such as parking lots and court yards) ancillary to industrial, commercial, and office structures that are covered with clean soil satisfying the requirements of paragraphs 3.1.5, 3.1.6, and 3.1.7 below. Such landscaped and paved areas shall not be used for play areas.

3.1.2 All other uses or modifications of uses are precluded unless the Owners or Occupants have demonstrated to the satisfaction of the Department that all remedial measures necessary for protection of human health and the environment have been taken. Other uses or modifications can be implemented only after prior written approval from the Department. Said approval shall not be unreasonably withheld or delayed. Such restricted uses include but are not limited to the following:

a. All uses not specified in paragraph 3.1.1 above. These include, but are not limited to, residential (e.g., single and multiple family, hotels, transient occupancy), day care, educational, public or institutional uses (e.g., cultural facilities, senior citizen facilities, health care facilities, and social service facilities) and agricultural uses.

b. All parks, playgrounds, water features, open space, yards, gardens, and landscaped areas, except those specified in paragraph 3.1.1 above.

c. Any use or improvement on top of the East Pond Cap or in the East Pond Area that could jeopardize the integrity of the East Pond Cap, the groundwater monitoring system, or the fencing.

3.1.3 No excavation at and/or removal of any soil from the East Pond Area shall be allowed, except as allowed pursuant to paragraphs 3.1.5, 3.1.6, and 3.1.7 below, without the prior written approval of the Department. Excavated soil must be tested for those hazardous substances identified in the RAP as being associated with the East Pond Area and properly used, treated, and/or disposed of as required by law and the Department.

3.1.4 Infrastructure improvements (e.g., streets, rail lines, utilities) must be developed consistent with paragraphs 3.1.5, 3.1.6, and 3.1.7 below.

3.1.5 Over those areas of the East Pond Area to be used for industrial or commercial uses where human exposure to soil is possible, such as landscaped areas or utility easements, the Owners or Occupants shall continually keep and maintain clean soil to such depth as the Owners or Occupants have demonstrated to the reasonable satisfaction of the Department to be protective of human health and the environment. Routine landscape maintenance (e.g. replacement of portions of the irrigation system or vegetation) which disturbs the clean soil shall be done in a manner which has been demonstrated to the reasonable satisfaction of the Department to be protective of human health and the environment.

3.1.6 Except for routine landscape maintenance as discussed in paragraph 3.1.5 above, no use, modification of use, or improvement in the East Pond Area shall be allowed to disturb the integrity of the overlying clean soil, East Pond Cap, fencing, or groundwater monitoring system unless the Owners or Occupants demonstrate to the satisfaction of the Department: (a) that the disturbance is necessary to the present or proposed use of the East Pond Area and can be accomplished in a manner that will not materially increase any hazard or potential hazard to human health and/or the environment, or (b) that such disturbance is necessary to reduce an imminent threat or endangerment to

human health and safety or the environment which reasonably appears to be sufficiently substantial to justify the risks, if any, to human health or the environment resulting from such disturbances. Any such disturbance shall be limited to the extent necessary to respond to the emergency only. The Owners or Occupants shall obtain evidence of the Department's satisfaction in writing before commencing the use, modification of use, and/or construction of the improvement.

3.1.7 Prior to the commencement of a use, modification of a use, or construction of any improvement by Owners or Occupants which disturbs the integrity of the East Pond Cap and/or overlying clean soil, Owners or Occupants shall give not less than sixty (60) days advance notice to the Department unless: (a) the activity is initiated to respond to an emergency as identified in paragraph 3.1.6(b) above; or (b) the Department waives the sixty (60) day notice requirement.

3.1.8 In the event that Owners or Occupants discover a disturbance of the East Pond Cap and/or overlying clean soil that was not addressed in paragraph 3.1.7 above, Owners or Occupants shall notify the Department of each of the following: (a) the type, cause, location, and date of any disturbance to the East Pond Cap and/or overlying clean soil which could affect the ability of the East Pond Cap to contain subsurface hazardous substances on the Property, and (b) the type and date of repair of such disturbance. Notification to the Department and a request for any proposed earth moving or excavation shall be made by telephone within 24 hours of the discovery of the East Pond Cap and/or overlying clean soil disturbance and by registered mail within five (5) working days of both the discovery of the East Pond Cap and/or overlying clean soil disturbance and the completion of repairs.

3.1.9 In the event that additional contamination is found during development or redevelopment of the East Pond Area, adequate measures shall be taken to achieve permanent remediation and prevent unacceptable exposures to humans or the environment. Discovery of such additional contamination in the East Pond Area requires the Owners or Occupants to notify the Department within twenty four (24) hours. Any plans for remediation must have prior approval by the Department.

3.1.10 The Department or its designated agents (including successor agencies) shall have access to the Property for the purpose of inspection, surveillance, or monitoring, or other purposes necessary to protect public health or safety and the environment as provided in Chapters 6.5 and 6.8 of the Health and Safety Code and Chapter 4 of Division 7 of the Water Code.

3.2 Conveyance of East Pond Area. The Owners or Occupants shall provide sixty (60) days advance notice to the Department of any sale, lease, or other conveyance of all or any portion of the East Pond Area to a third person. The Department shall have no authority to approve, disapprove, or otherwise affect any such sale, lease or other conveyance of the East Pond Area, except as expressly set forth in this Covenant, or as provided by other applicable law or administrative order.

3.3 Enforcement. Failure of the Owners or Occupants to comply with any of the Restrictions set forth in paragraph 3.1 shall be grounds for the Department to take any action as provided by law. If the Owners or Occupants use the East Pond Area or construct any improvements in the East Pond Area in violation of the Restrictions and requirements set forth in paragraph 3.1 above, the Department shall be entitled, pursuant to this Covenant, to require that the Owners or Occupants remove or modify such restricted uses and/or improvements to bring same into compliance with the Restrictions and requirements set forth in paragraph 3.1.

3.4 Notice in Agreements. All Owners and Occupants shall execute a written instrument which shall accompany all purchase, lease, sublease, or rental agreements relating to the East Pond Area. The instrument shall contain the following statement:

"The land described herein contains hazardous substances. Such condition renders the land and the owner, lessee, or other possessor of the land subject to requirements, restrictions, provisions, and liabilities contained in Chapter 6.5 and Chapter 6.8 of Division 20 of the Health and Safety Code. This statement is not a declaration that a hazard exists".

#### ARTICLE IV

##### VARIANCE AND TERMINATION

4.1 Variance. Any Owners or, with the Owners' consent, any Occupants of all or any portion of the East Pond Area, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with H&SC Section 25233.

4.2 Termination. Any Owners or, with the Owners' consent, any Occupants of all or any portion of the East Pond Area, may apply to the Department for a termination of the Restrictions as they apply to all or any portion of the East Pond Area. Such application shall be made in accordance with H&SC Section 25234.

4.3 Term. Unless terminated in accordance with paragraph 4.2 above or by operation of law, this Covenant shall continue in effect in perpetuity.

#### ARTICLE V

##### MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property or any portion thereof to the general public or for any purposes whatsoever.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other

communication shall be in writing and shall be deemed effective (a) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served or official of a government agency being served; or (b) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested to the record owner or until ownership changes:

To: Cyrus A. Jaffari  
Caspian Inc.  
4951 Ruffin Road  
San Diego, California 92123-1693

Copy to: California Environmental Protection Agency  
Department of Toxic Substances Control  
Regional Office  
245 West Broadway, Suite 425  
Long Beach, California 90802  
Attention: Branch Chief, Site Mitigation Operations Branch

5.3 Partial Invalidity. If any portion of the Restrictions or other terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Heading. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

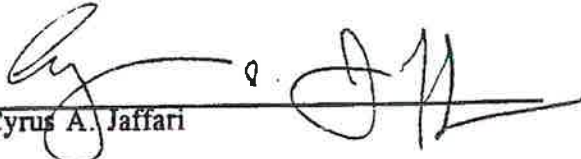
5.5 Recordation. This instrument shall be executed by the Covenantor and by an authorized representative of the Department. This instrument shall be recorded by the Covenantor in the County of Imperial within twenty (20) days of the Covenantor's receipt of an original executed instrument from the Department.

5.6 References. All references to Code sections include successor provisions.

5.7 Rights. Nothing in this Covenant confers any rights to the Owners or Occupants above and beyond those otherwise in existence under state law.

IN WITNESS WHEREOF, the parties have executed this Covenant as of the date set forth above.

COVENANTOR

  
Cyrus A. Jaffari

DEPARTMENT OF TOXIC  
SUBSTANCES CONTROL

By:   
John E. Scandura

Title: Chief, Site Mitigation Operations  
Branch, Region 4

STATE OF CALIFORNIA )  
 )  
COUNTY OF SAN DIEGO )

On JUNE 27, 1994, before me, the undersigned, a Notary public in and for said state, personally appeared Cyrus A. Jaffari, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

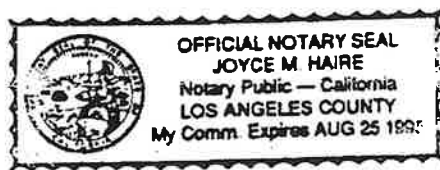


Karen Lynn Kincaid  
Notary Public in and for said  
County and State

STATE OF CALIFORNIA )  
 )  
COUNTY OF Los Angeles )

On June 29, 1994, before me, the undersigned, a Notary Public in and for said state, personally appeared John E. Scandura, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as representative of the Department of Toxic Substances Control, the agency that executed the within instrument, and acknowledged to me that such agency executed the same.

WITNESS my hand and official seal.



Joyce M. Haire  
Notary Public in and for said  
County and State

**EXHIBIT "A"**

**(Legal Description of Property)**

**That portion of Tract 57, Township 15 South, Range 14 East, S.B.M., County of Imperial, State of California, according to the Official Plat thereof shown and designated as Parcel 2, on Parcel Map M-653 on file in Book 2, Page 56 of Parcel Maps in the office of the County Recorder of Imperial County.**

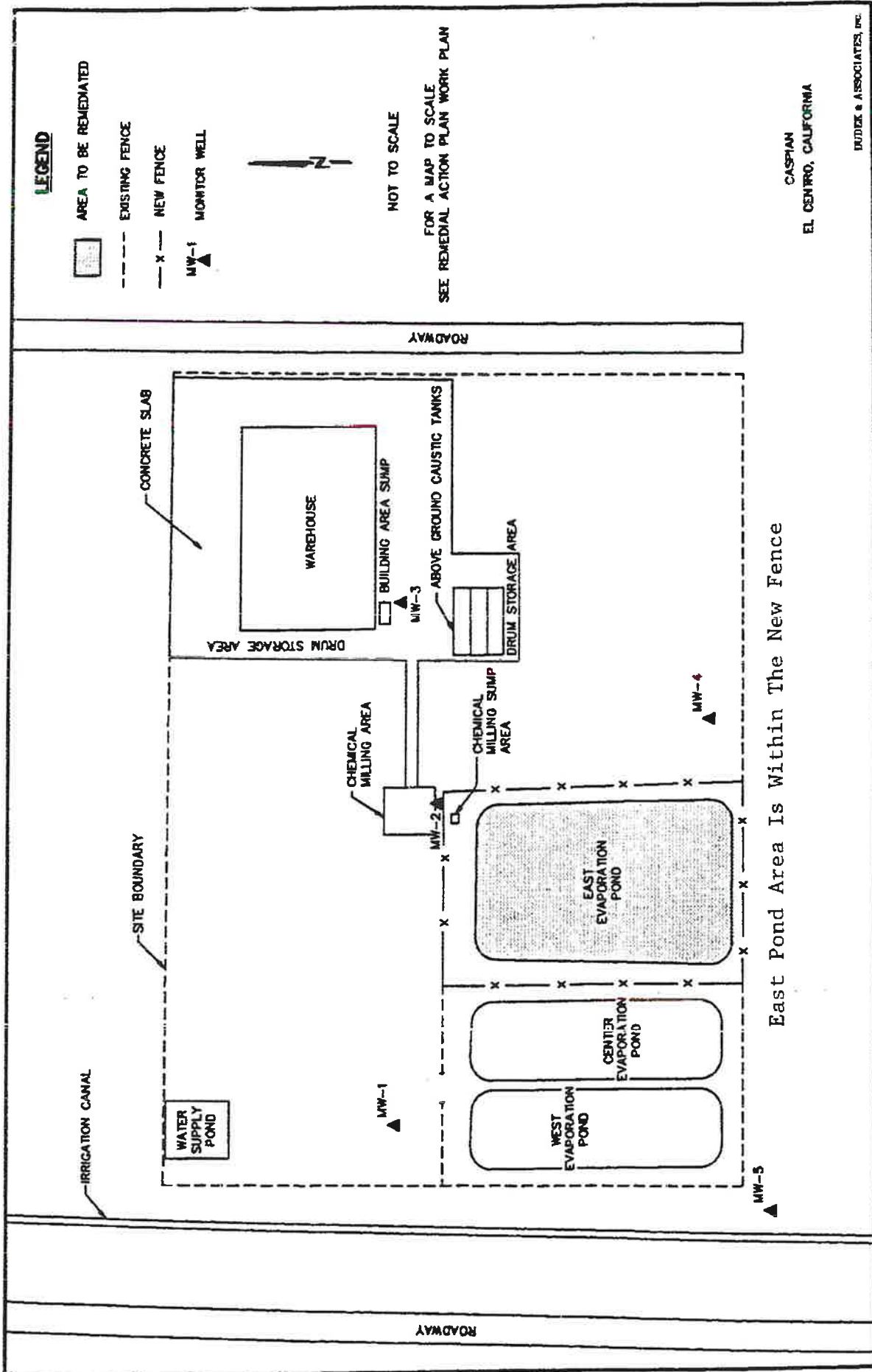
**EXHIBIT "B"**

**(Legal Description of East Pond Area and Site Plan)**

A Portion of Parcel 2, of Parcel Map No. M-653, in Township 15 South, Range 14 East, in Book 2, Page 56, as recorded at the County Recorder's Office, County of Imperial, State of California, S.B.M., described as follows:

Beginning at the southeast corner of said Parcel 2; thence west, along the south line of said Parcel, a distance of 363.65 feet, to the true point of beginning; thence north 01 21' 58" west, a distance of 266.00 feet, to a point; thence south 89 44' 55" west, a distance of 194.00 feet to a point; thence south 01 23' 32" east, a distance of 265.15 feet to a point on the south line of said parcel; thence east along the south line of said parcel, a distance of 193.90 feet, to the true point of beginning.

Said area to contain plus or minus 1.18 acres.



CASPAN  
EL CENTRO, CALIFORNIA

INDICE & ASSOCIATES, INC.

*Expian, Inc.*

*Attached is the receipt for the recording of the Deed  
Restrictions on 6/30/94.*

**DOLORES  
PROVENCIO**

IMP. CO. RECORDER  
P.O. BOX 1560  
EL CENTRO, CA 92244  
339-4275

06-30-94 #1

#15338

1X	0.00	@
NO FEE	0.00	
CASH	0.00	

ITEM 1  
RDEJOE 6743 16:11TH

PC ORIGINAL PKG

# **EXHIBIT F**

PC ORIGINAL PKG

**CHUCK STOREY**  
COUNTY CLERK/RECORDER

P Public

RECORDING REQUESTED BY:  
Aten Properties, LLC  
839 Dogwood Road  
Heber, California 92249

Doc#: **2014007912**



\* \$ R 0 0 0 0 0 9 5 9 9 2 \$ \*

Titles: 1    Pages: 21  
Fees            NO FEE

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control  
5796 Corporate Avenue  
Cypress, California 90630  
Attention: Emad Yemut, Unit Chief  
Brownfields and Environmental  
Restoration Program

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

21  
-  
8

**LAND USE COVENANT AND AGREEMENT**

**ENVIRONMENTAL RESTRICTIONS**

County of Imperial, Assessor's Parcel Number: 044-220-045  
Aten Properties, LLC Site  
(Former Caspian Inc. Site)  
Site Code: 401693

This Land Use Covenant and Agreement ("Covenant") is made by and between Aten Properties, LLC (the "Covenantor"), the current owner of property located at 287 Aten Road, Imperial, in the County of Imperial, State of California (the "Property"), and the Department of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471, the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code section 25260. The Covenantor and the Department, collectively referred to herein as the "Parties," hereby agree that, pursuant to Civil Code section 1471 and Health and Safety Code section 25355.5, the use of the Property be restricted as set forth in this Covenant and that the Covenant shall conform with the requirements of California Code of Regulations, title 22, section 67391.1.

ARTICLE I  
STATEMENT OF FACTS

1.1. Property Location. The Property that is subject to this Covenant, totaling approximately 1.18 acres, is more particularly described and depicted in the attached Exhibit A, "Legal Description," and Exhibit B, "Plot Plan." The Property is located in the area now generally bounded by West Aten Road to the north, Liemgruber Street to the east, a vacant property to the south, and commercial/industrial property to the west. The Property is also identified as County of Imperial, Assessor's Parcel Number 044-220-045.

A limited portion of the Property is more particularly described in Exhibit "C," and referred to as the East Evaporation Pond ("East Pond Area"), which is located within a fenced area in the south-central portion of the Property.

1.2. Remediation of Property. This Property has been remediated under the Department's oversight pursuant to a Remedial Action Plan, dated January 1994, approved by the Department in accordance with Health and Safety Code, division 20, chapter 6.8. The remediation activities conducted by Caspian, Inc. at the Property included installation of a low permeability soils/Flexible Membrane Lined (FML) composite covering the East Pond Area (referred to herein as the "East Pond Cap"). An Operation and Maintenance Agreement, dated June 29, 1994, outlined the operation and maintenance obligations of Caspian, Inc. with respect to the Property.

1.3. Basis for Environmental Restrictions. Hazardous substances, which are also considered hazardous materials as defined in Health and Safety Code section 24260, remain at the Property above levels acceptable for unrestricted land use. As a result of the presence of soils containing high pH levels, soluble copper at 32.5 milligram per liter (mg/l), and soluble chromium at 5.2 mg/l at the Property, the Department has concluded that it is reasonably necessary to restrict the use of the Property in order to protect present or future human health or safety or the environment, and that this Covenant is required as part of the Department-approved remedy for the Property. The Department has also concluded that the Property, as remediated and when used in compliance with the Environmental Restrictions of this

Covenant, does not present an unacceptable risk to present and future human health or safety or the environment.

ARTICLE II  
DEFINITIONS

2.1. Department. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

2.2. Environmental Restrictions. "Environmental Restrictions" means all protective provisions, covenants, restrictions, requirements, prohibitions, and terms and conditions as set forth in this Covenant.

2.3. Improvements. "Improvements" includes, but is not limited to, buildings, structures, roads, driveways, improved parking areas, wells, pipelines, or other utilities.

2.4. Lease. "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.

2.5. Occupant. "Occupant" or "Occupants" means the Owner and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

2.6. Owner. "Owner" or "Owners" means the Covenantor and any successor in interest, including heir and assign, who at any time holds title to all or any portion of the Property.

ARTICLE III  
GENERAL PROVISIONS

3.1. Runs with the Land. This Covenant sets forth Environmental Restrictions that apply to and encumber the Property and every portion thereof no matter how it is improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. This Covenant: (a) runs with the land pursuant to Civil Code section 1471 and Health and Safety Code section 25355.5; (b) inures to the benefit of and passes with each and every portion of the Property; (c) is for the benefit of and is enforceable by the Department; and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.2. Binding upon Owners/Occupants. This Covenant binds: (1) all Owners of the Property, their heirs, successors, and assignees; and (2) the agents, employees,

and lessees of the Owners and the Owners' heirs, successors, and assignees. Pursuant to Civil Code section 1471, all successive Owners of the Property are expressly bound hereby for the benefit of the Department. This Covenant, however, is binding on all Owners and Occupants, and their respective successors and assigns, only during their respective successive periods of ownership or occupancy except that such Owners or Occupants shall continue to be liable for any violations of the Environmental Restrictions of this Covenant or any acts or omissions during their ownership or occupancy.

3.3. Incorporation into Deeds and Leases. This Covenant shall be incorporated by reference in each and every deed and Lease for any portion of the Property.

3.4. Conveyance of Property. The Owner and new Owner shall provide Notice to the Department not later than 30 calendar days after any conveyance or receipt of any ownership interest in the Property (excluding Leases, and mortgages, liens, and other non-possessory encumbrances). The Notice shall include the name and mailing address of the new Owner of the Property and shall reference the site name and site code as listed on page one of this Covenant. The Notice shall also include the Assessor's Parcel Number(s) noted on page one. If the new Owner's property has been assigned a different Assessor's Parcel Number, each such Assessor's Parcel Number that covers the Property must be provided. The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise affect proposed conveyance, except as otherwise provided by law or by administrative order.

3.5. Costs of Administering the Covenant to be paid by Owner. The Department has already incurred and will in the future incur costs associated with the administration of this Covenant. Therefore, the Covenantor hereby covenants for the Covenantor and for all subsequent Owners that, pursuant to California Code of Regulations, title 22, section 67391.1(h), the Owner agrees to pay the Department's costs in administering the Covenant.

#### ARTICLE IV

#### RESTRICTIONS AND REQUIREMENTS

4.1. Prohibited Uses. The Property shall not be used for any of the following

purposes:

- (a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.
- (b) A hospital for humans.
- (c) A public or private school for persons under 18 years of age.
- (d) A day care center for children.

4.2. Soil Management.

- (a) No activities that will disturb the soil (e.g., excavation, grading, removal, trenching, filling, earth movement, mining, or drilling) shall be allowed at the Property without a Soil Management Plan pre-approved by the Department in writing.
- (b) Any soil brought to the surface by grading, excavation, trenching or backfilling shall be managed in accordance with all applicable provisions of state and federal law.

4.3. Non-Interference with East Pond Area.

- (a) No activities that may alter, disturb, interfere with, or otherwise affect the integrity of, or the access to, the East Pond Cap and surrounding fence installed in the East Pond Area (e.g. excavation, grading, removal, trenching, filling, earth movement, or mining) shall be allowed at the Property without prior written approval by the Department.

4.5. Access for Department. The Department shall have reasonable right of entry and access to the Property for inspection, investigation, remediation, monitoring, and other activities as deemed necessary by the Department in order to protect the human health or safety or the environment.

4.6. Inspection and Reporting Requirements. The Owner shall conduct an annual inspection of the Property verifying compliance with this Covenant and shall submit an annual inspection report to the Department for its approval by December 15th of each year. The annual inspection report form is attached hereto as Exhibit D. The annual inspection report must include the dates, times, and names of those who conducted the inspection and reviewed the annual inspection report. It also shall describe how the observations that were the basis for the statements and conclusions

in the annual inspection report were performed (e.g., drive by, fly over, walk in, etc.). If any violation is noted, the annual inspection report must detail the steps taken to correct the violation and return to compliance. If the Owner identifies any violations of this Covenant, then the Owner must: (1) identify the violation in the annual inspection report if the violation was discovered during the annual inspection; or (2) notify the Department of the violation within 10 calendar days of discovery of the violation if the violation was discovered during any other time. If the violation of the Covenant was committed by a party other than the Owner, then the Owner must within 10 calendar days of identifying the violation: determine the identity of the party in violation; send a letter advising the party of the violation of the Covenant; and demand that the violation cease immediately. Additionally, a copy of any correspondence related to the violation of this Covenant shall be sent to the Department within 10 calendar days of its original transmission.

4.7 Five-Year Review. In addition to the annual inspection required by Paragraph 4.6, after a period of five (5) years from the recordation of this Covenant and every five (5) years thereafter, Owner shall review and reevaluate to evaluate the integrity and effectiveness of the East Pond Area, including the East Pond Cap and surrounding fence, to determine if human health and the environment are being adequately protected. Within 30 calendar days before the end of each five-year period, Owner shall submit a five-year review workplan to DTSC for review and approval. Within 60 calendar days of DTSC's approval of the workplan, Owner shall implement the workplan and submit a report of the results of the five-year review. The report shall describe the results of all inspections, sampling analyses, tests and other data generated or received by Owner and evaluate the adequacy of the implemented remedy in protecting human health and the environment. As a result of any review work performed, DTSC may require Owner to perform additional review work or modify the review work previously performed by Owner.

ARTICLE V  
ENFORCEMENT

5.1. Enforcement. Failure of the Owner or Occupant to comply with this Covenant shall be grounds for the Department to require modification or removal of any Improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant, including but not limited to, failure to submit (or the submission of any false statement), record, or report to the Department, shall be grounds for the Department to pursue administrative, civil, or criminal actions, as provided by law.

ARTICLE VI  
VARIANCE, REMOVAL AND TERM

6.1. Variance from Environmental Restrictions. Any person may apply to the Department for a written variance from any of the Environmental Restrictions imposed by this Covenant. Such application shall be made in accordance with Health and Safety Code section 25223.

6.2. Removal of Environmental Restrictions. Any person may apply to the Department to remove any of the Environmental Restrictions imposed by this Covenant or terminate the Covenant in its entirety. Such application shall be made in accordance with Health and Safety Code section 25224.

6.3. Term. Unless ended in accordance with paragraph 6.2, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII  
MISCELLANEOUS

7.1. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof, to the general public or anyone else for any purpose whatsoever.

7.2. Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Imperial within 10 calendar days of the Covenantor's receipt of a fully executed original.

7.3. Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (a) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served; or (b) three business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested. Any Notice required by this Covenant must be provided to the following persons:

To Owner: Daryl Dickerson, Owner  
Aten Properties, LLC  
839 Dogwood Road  
Heber, California 92249

Kathy Marquand, Office Manager  
Aten Properties, LLC  
839 Dogwood Road  
Heber, California 92249

And

To Department: Emad Yemut  
Brownfields and Environmental Restoration Program  
5796 Corporate Avenue  
Cypress, California 90630

Any party may change its address or the individual to whose attention a Notice is to be sent by giving advance Notice in compliance with this paragraph.

7.4. Partial Invalidity. If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.5. Statutory References. All statutory or regulatory references include successor provisions.

7.6. Incorporation of Exhibits. All exhibits and attachments to this Covenant are incorporated herein by reference.

IN WITNESS WHEREOF, the Parties execute this Covenant.

Daryl Dickerson, Owner and Covenantor:

By: Daryl Dickerson

Title: DARYL L. DICKERSON / member  
Print Name and Title of Signatory

Date: 12/9/13

Department of Toxic Substances Control:

By: Emad Yemut

Title: Sup. HSEY EMAD YEMUT  
Print Name and Title of Signatory

Date: 2/13/2014

State of California

*see attached*

County of \_\_\_\_\_

On \_\_\_\_\_ before me,

\_\_\_\_\_  
*(space above this line is for name and title of the officer/notary),*

personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal,

\_\_\_\_\_  
Signature of Notary Public (seal)

# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA

County of Imperial }

On December 9, 2013 before me, Katherine Marquand, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Daryl Dickerson  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

Witness my hand and official seal.

Signature Katherine Marquand  
Signature of Notary Public



Place Notary Seal Above

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

### Capacity(ies) Claimed by Signer(s)

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

**RIGHT THUMBPRINT OF SIGNER**

Top of thumb here

Signer Is Representing: \_\_\_\_\_

State of California

County of Orange

On February 13, 2014 before me,

Ghanshyam Patel, Notary Public  
(space above this line is for name and title of the officer/notary),

personally appeared Emad Yemut, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal,

Ghanshyam Patel (seal)  
Signature of Notary Public

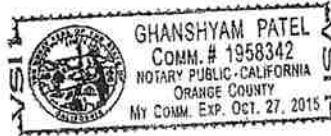


EXHIBIT A  
LEGAL DESCRIPTION

PC ORIGINAL PKG

**Legal Description**

That portion of Tract 57, Township 15 South, Range 14 East, S.M.B., County of Imperial, State of California, according to the official Plat thereof shown and designated as Parcel 2, on Parcel Map M-653 on file in Book 2, Page 56 of parcel maps in the office of the County Recorder of Imperial County.

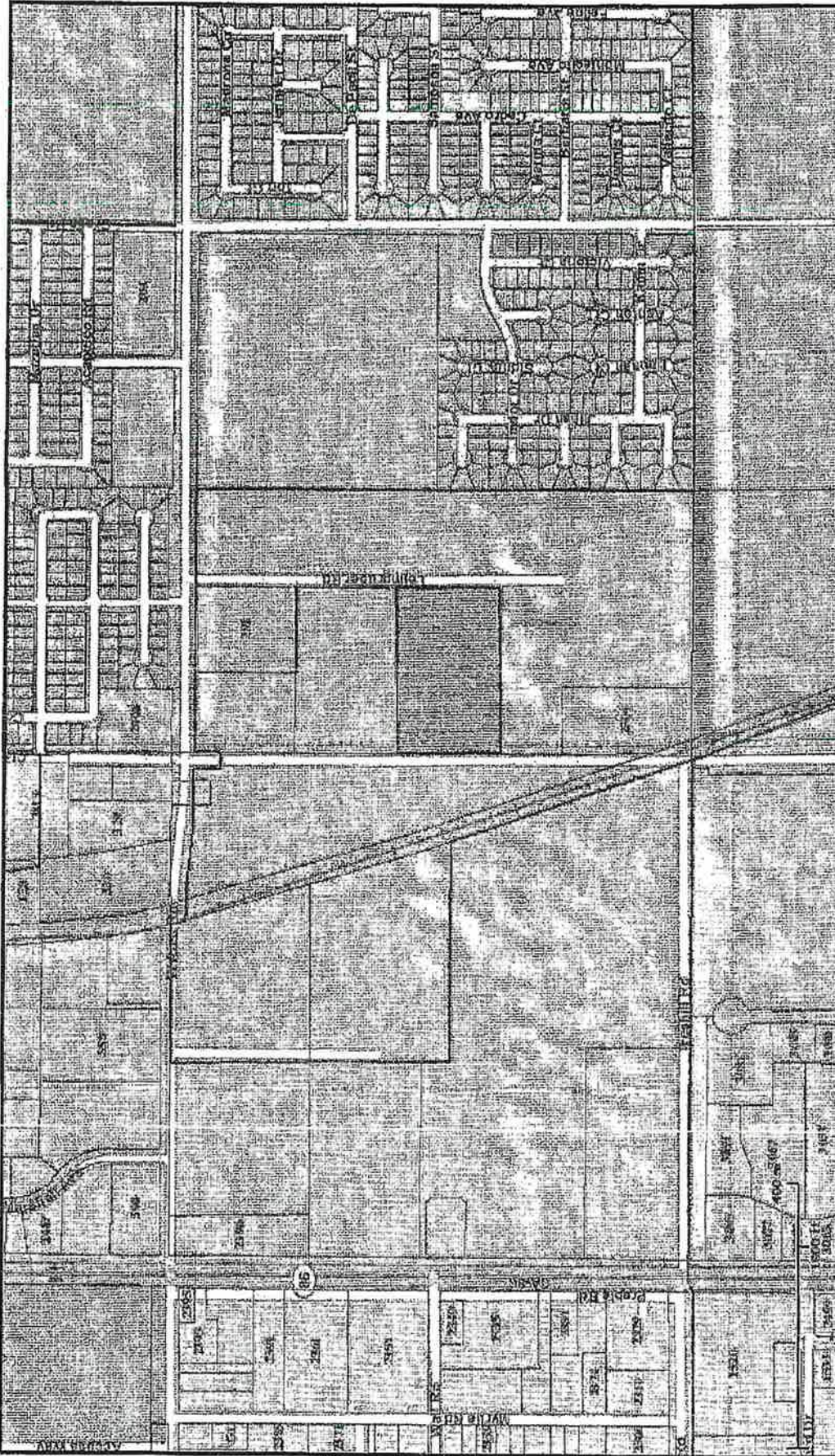
W 830 89 FT of S 525 FT of N. 1545.25 FT TR57 15-1

**PC ORIGINAL PKG**

EXHIBIT B  
PLOT PLAN

PC ORIGINAL PKG

**Exhibit B - Plot Plan**



1" = 752 ft

287 Aiken Road  
El Centro,  
California 92243

04/14/2014



This map represents a visual display of related geographic information. Data provided hereon is not a guarantee of actual field conditions. To ensure of complete accuracy, please contact Imperial County staff for the most up-to-date information.

EXHIBIT C  
EAST POND AREA

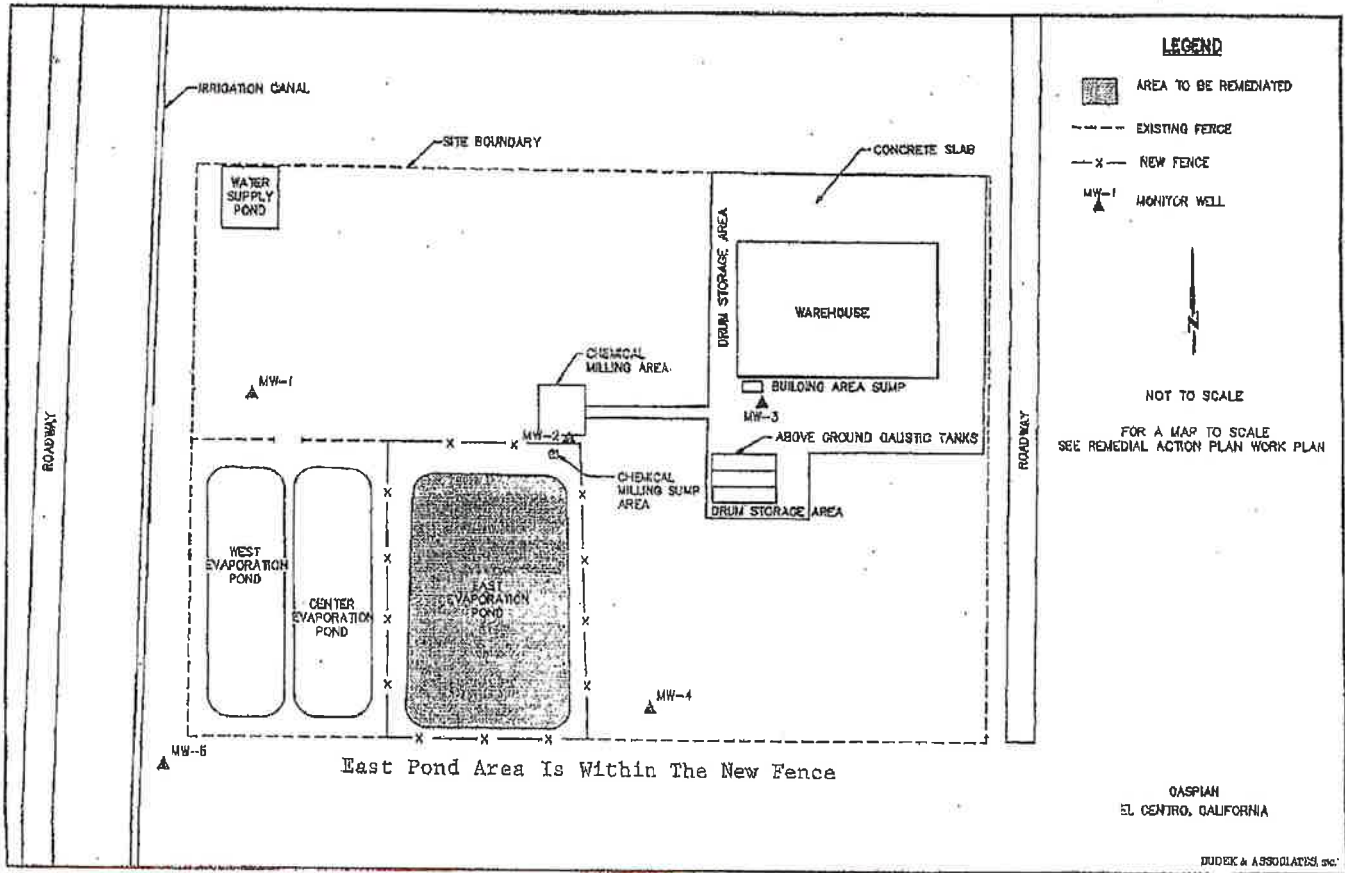


EXHIBIT D  
INSPECTION CHECKLIST FORM

**Caspian Inc./Aten Properties**  
**ANNUAL INSPECTION CHECKLIST**

Name of Person Completing Inspection: \_\_\_\_\_

Address of Inspector: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

Phone number of Inspector \_\_\_\_\_

Inspector's California Driver's License Number \_\_\_\_\_

Date of Inspection: \_\_\_\_\_

How was inspection performed? \_\_\_\_\_

	YES	NO
1. Is there a residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation on the property?	<input type="checkbox"/>	<input type="checkbox"/>
2. Is there a hospital for humans on the property?	<input type="checkbox"/>	<input type="checkbox"/>
3. Is there a public or private school for persons under 21 years of age on the property?	<input type="checkbox"/>	<input type="checkbox"/>
4. Is there a day care center for children on the property?	<input type="checkbox"/>	<input type="checkbox"/>
5. Is there evidence of Excavation? [If excavation was noted in the vicinity of the property explain in detail on attached pages the purpose of the excavation, when it was performed, and who at the Department approved the Soil Management plan.]	<input type="checkbox"/>	<input type="checkbox"/>
6. Has there been a sale, lease, sublease or transfer of the property in the last 365 days?	<input type="checkbox"/>	<input type="checkbox"/>
7. If there was a transfer, was there failure to provide notice of the environmental restriction (as required by the Covenant)?	<input type="checkbox"/>	<input type="checkbox"/>
8. If there was a conveyance, was there failure to provide notice to the Department of Toxic Substances Control?	<input type="checkbox"/>	<input type="checkbox"/>
9. Did you fail to use due diligence and make an inquiry as to each and every restriction noted in the deed restriction or	<input type="checkbox"/>	<input type="checkbox"/>

**Caspian Inc./Aten Properties**  
**ANNUAL INSPECTION CHECKLIST**

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listed on this annual inspection checklist?

10. Has there been any change in the restrictions under a variance, modification or termination as approved by the Department under the Health and Safety Code? [If yes, describe in detail the change and the date of such approval for that change.]

11. Have there been any violations of the Deed Restrictions? [If yes, describe in detail on an attached page the steps taken to return to compliance.]


Please explain each yes response in detail on attached pages.

I certify (or declare) under penalty of perjury under the Laws of the State of California that the foregoing is true and correct.

Signed: \_\_\_\_\_

DATE: \_\_\_\_\_

Inspector Representative of owner for  
Caspian Inc./Aten Properties  
—287 West Aten Road  
Imperial, California 92251

# EXHIBIT G

PC ORIGINAL PKG

CAPITOL OFFICE  
1021 O STREET, SUITE 7630  
SACRAMENTO, CA 95811  
TEL: 916-651-4018  
FAX: 916-651-4918

SAN DIEGO COUNTY DISTRICT OFFICE  
780 BAY BOULEVARD, SUITE 204  
CHULA VISTA, CA 91910  
TEL: 619-409-2690

IMPERIAL COUNTY DISTRICT OFFICE  
1224 STATE STREET, SUITE D  
EL CENTRO, CA 92243  
TEL: 760-335-3442

RIVERSIDE COUNTY DISTRICT OFFICE  
82013 DR. CARREON BOULEVARD, SUITE D  
INDIO, CA 92201  
TEL: 760-398-6442

WWW.SENATE.CA.GOV/PADILLA  
SENATOR PAUL LAHRENATE.CA.GOV

# California State Senate

SENATOR  
**STEPHEN C. PADILLA**  
EIGHTEENTH SENATE DISTRICT



COMMITTEES  
GOVERNMENTAL ORGANIZATION  
CHAIR  
MEMBER  
AGRICULTURE  
HEALTH  
HOUSING  
INSURANCE

December 1, 2025

Board of Supervisors  
County of Imperial  
940 West Main Street  
El Centro, CA 92243

Dear Honorable Members of the Board:

I write today to request information on a data center application in the county of Imperial.

The rapid advancement of AI has created a rise in demand for data centers. Proponents argue these facilities represent key economic opportunities, providing jobs and property taxes to the local community. However, the potential of data centers should not come at the cost of environmental and public health. Before any data center projects are approved by the County, a complete picture of the water usage and energy demands must be clarified, and area residents must be given a full picture of how the energy and water costs will affect them.

With careful planning, data centers can be an important economic opportunity for Imperial County. However, if done without full review and planning, they could have dire water, energy and air quality impacts for the local community and its residents. Ensuring the communities in the surrounding areas can provide input and are protected from unfair cost shifts and environmental dangers should be prioritized, particularly given the well documented negative impacts data centers have had in other parts of the nation.

Data center's energy demand requires expensive upgrades to the electrical grid in addition to increased energy demand. The cost of these upgrades is not always fully paid for by the large energy user, and other utility customers are left to shoulder the cost.<sup>1</sup> The increase in energy generation to power these data centers also come with an environmental and public health cost.

<sup>1</sup> Ivan, Pen. "Data Centers' Hunger for Energy Could Raise All Electric Bills." The New York Times, May, 16, 2025.  
<https://www.nytimes.com/2025/05/16/business/energy-environment/data-centers-utilities-electricity-bills.html>

PC ORIGINAL PKG

Northern Virginia, which has the highest concentration of data centers in the world, face projected electricity cost increases of 25%, and aging fossil fuel plants are delaying retirement due to the increased energy demand.<sup>2</sup> These data centers using fossil fuels such as coal and diesel are estimated to create public health costs more than 5.4 billion dollars from air pollution, linking these facilities to cancer, asthma, and other health issues.<sup>3</sup> The impacts of data centers is not limited to energy costs and public health, but also water reliability.

In Newton County, Georgia, residents face skyrocketing water costs and the county is on track to be in a water deficit in five years.<sup>4</sup> Other data center proposals in the county have asked for up to 6 million gallons a day, greater than the county's entire daily use. Other developments in Georgia have asked for 9 million gallons a day, equivalent to 30,000 households. This is not an isolated issue. The water shortages caused by data center development is being felt across the US and exacerbates drought conditions. Data centers developing in Imperial County without proper review threaten affordability, public health, and other economic drivers in the community such as agriculture.

Recent information about the data center application in Imperial County has raised multiple questions on the potential negative impact for residents in the area. I am requesting additional information on the application.

- Under what grounds did the County as lead agency determine that the proposed facility exempt from CEQA?
- Did the facility provide a negative declaration or mitigated negative declaration?
- What is the water source for the data center?
- What is the energy source of the data center?
- Are the on-site generators backup only? What is the power source?
- What is the distance of the nearest resident to the data center?

There is an urgent need to balance environmental justice and health with economic opportunity, and CEQA provides a valuable tool for the local community to be informed on the environmental impacts of planned developments. Input from residents to prevent rising energy costs, water degradation, and air pollution should remain a priority when pursuing economic opportunity. I also urge you to coordinate with Imperial Irrigation District to ensure sufficient energy and water can be supplied to these facilities.

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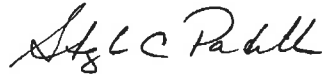
<sup>2</sup> Blackhurst, Michael, Cameron Wade, Joe DeCarolis, Anderson de Queiroz, Jeremiah Johnson, and Paulina Jaramillo. "Data Center Growth Could Increase Electricity Bills 8% Nationally and as Much as 25% in Some Regional Markets." Carnegie Mellon University, July 16, 2025. <https://www.cmu.edu/work-that-matters/energy-innovation/data-center-growth-could-increase-electricity-bills>.

<sup>3</sup> Criddle, Cristina, and Stephanie Stacey. "Pollution from Big Tech's Data Centre Boom Costs US Public Health \$5.4bn." Financial times, February 22, 2025. <https://www.ft.com/content/d595d5f6-79d1-47eb-b690-8597f09b39e7?sharetype=blocked>.

<sup>4</sup> Tan, Eli. "Meta Built a Data Center next Door: the Neighbors' Water Taps Went Dry." - The New York Times." The New York Times, July 14, 2025. <https://www.nytimes.com/2025/07/14/technology/meta-data-center-water.html>.

If you require any additional information, please do not hesitate to contact my office through Emily Zhou, legislative aide, at (916) 651-4018 or at [Emily.Zhou@sen.ca.gov](mailto:Emily.Zhou@sen.ca.gov). Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink that reads "Stephen C. Padilla". The signature is written in a cursive style with a large initial "S" and "P".

Senator Stephen C. Padilla  
18<sup>th</sup> Senate District

# **EXHIBIT H**

PC ORIGINAL PKG

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***IMPERIAL VALLEY COMPUTER MANUFACTURING, LLC***

16400 Pacific Coast Highway, Suite 212

Huntington Beach, CA 92649

Phone: (562) 901-0199

Fax: (562) 249-6910

Email: Sebastian@RucciLaw.com

---

Senator Stephen Padilla (Senator.Padilla@senate.ca.gov)

Emily Zhou (Emily.Zhou@sen.ca.gov)

Jesus Eduardo Escobar (JesusEscobar@co.imperial.ca.us)

Martha Cardenas-Singh (MarthaSingh@co.imperial.ca.us)

Peggy Price (PeggyPrice@co.imperial.ca.us)

Ryan Kelley (RyanKelley@co.imperial.ca.us)

John Hawk (JohnHawk@co.imperial.ca.us)

Jim Minnick (JimMinnick@co.imperial.ca.us)

December 4, 2025

Senator Stephen Padilla

California Senate Office

1021 O. Street, Suite 7630, Sacramento, CA 95814

Re: Response to Letter to Imperial County Regarding 330 MW Data Center Campus

Dear Senator Padilla,

As the developer of the 330 MW Data Center Project, we appreciate the legitimate concerns raised regarding water use and power reliability. We share the community's interest in protecting local resources and ensuring responsible growth in the Valley. This project has been designed to meet high environmental standards while delivering meaningful local economic benefits. We are committed to ongoing dialogue with community stakeholders.

From the outset, the campus has been designed around clear, enforceable operational commitments intended to protect the Imperial Valley's water and electric systems:

- 100% renewable power
- 100% reclaimed water (no potable water demand)
- Zero cost to IID or water ratepayers
- Peak-shaving to eliminate grid stress
- Industrial-zoned location chosen for compatibility
- Noise and emissions minimized through modern design

These commitments reflect a practical approach: the project must function reliably without shifting costs or resource burdens onto existing residents, farmers, or ratepayers.

**PC ORIGINAL PKG**

## 1. PROJECT OVERVIEW AND ENVIRONMENTAL COMMITMENTS

### 1.1 Land Use Compatibility and Permitting Basis

The data center campus is located in an industrial-zoned area selected specifically to align with existing land-use policy. We have included documentation from Imperial County confirming that a data center use is permitted “as of right” under current industrial zoning.

We are also providing materials addressing the project's permitting pathway, including documentation regarding CEQA applicability. As shown in the attached materials:

- The project's relevant approvals consist of ministerial permits (e.g., grading, site plan, building permits, lot merger), which are exempt from CEQA.
- The record includes a Notice of Exemption and supporting reports addressing why data centers on industrial-zoned land are exempt from CEQA review.

### 1.2 Infrastructure Serviceability (Water, Sewer, Gas, Electricity)

We are also providing site plans, grading plans, a lot merger package, and survey information demonstrating that the project site can be serviced with: Sewer, Water, Gas and Electricity. The project has been planned specifically to utilize existing or planned utility corridors and service capabilities consistent with an industrial use in this location.

### 1.3 Power Supply, Grid Impacts, and Reliability Commitments

We recognize that “renewable power” and “grid impacts” require engineering support and a realistic operational plan. We are providing IID and third-party studies that address feasibility and system impacts, including IID Feasibility Study; IID System Impact Study (250 MW on S-line); and IID System Impact Study (80 MW on R-line).

We are also providing correspondence regarding wholesale power procurement, supporting the strategy to secure renewable energy in a way that reduces peak stress. A core operational objective is peak-shaving / load-shaping so the campus minimizes grid stress during peak hours thereby protecting system reliability for existing customers.

### 1.4 Water Supply: Reclaimed Water Only

We understand the Valley's sensitivity to water availability and will use 100% reclaimed water, avoiding demand on potable supplies. We are providing reclaimed-water reports from City of El Centro and the City of Imperial. These materials document reclaimed water is available and the project's will rely on reclaimed sources rather than potable water.

**2. WATER USE: 100% RECLAIMED WATER; ZERO RATEPAYER IMPACT**

The data center will use 100% reclaimed (tertiary-treated) water supplied by the City of El Centro from its Wastewater Treatment Plant. No potable water will be used, and no existing IID allocations will be diverted to supply the project.

**2.1 Project-Funded Infrastructure (No Cost to Ratepayers)**

To ensure reclaimed water availability and reliability, we funded the required engineering studies and agreed to pay for construction of the additional reclamation facilities and associated pipeline infrastructure needed to deliver reclaimed water to the site. As a result, these improvements are project-funded and do not require ratepayer subsidies.

**2.2 Net-Positive Reclamation and Purchase Structure**

Under the El Centro arrangement, the project will reclaim 4 million gallons per day (MGD) of treated wastewater, and purchase approximately 750,000 gallons per day of reclaimed water for facility operations. In other words, the project will reclaim five times more water than it will purchase, creating surplus reclaimed water capacity for the City.

**2.3 Economic Benefit to the City**

The project will pay the City for reclaimed water, producing a net-positive revenue stream for El Centro. In addition, the project's capital investment in treatment and conveyance infrastructure improves the City's long-term reclaimed-water capability without shifting costs to residents.

**2.4 No Impact to Local Water Rates or Availability; Environmental Upside**

Because the project uses reclaimed water and pays for all upgrades, there is no impact to local potable water supplies, no reduction in existing water availability, and no upward pressure on water rates. The surplus reclaimed water will provide additional community benefits and can be sold or made available to local agricultural users, and/or flow to the Salton Sea via the canal system providing environmental benefit.

**2.5 Additional Reclaimed Water Commitment (City of Imperial)**

Separately, we have negotiated to reclaim an additional 2 million gallons per day (2 MGD) from the City of Imperial. As with El Centro, we funded the study and will fund necessary upgrades to enable reclamation and delivery, ensuring no ratepayer impact. The City of El Centro reclaimed water study and the City of Imperial's study are attached.

### 3. IID STUDIES CONFIRMED THE FEASIBILITY OF 330 MW

Multiple engineering studies conducted with IID confirm the 330 MW request requires no IID-funded upgrades, as there were no impacts to the main power line during testing. We will fund the entire on-site substation, currently estimated to cost \$80 million.

Four studies have confirmed the project's technical feasibility. IID performed three studies for delivery of 250 MW on the 230 kV S-line and 80 MW on the 92 kV R-line:

- December 4, 2024 -- Power Engineers Load Injection Study: Concluded there was 557 MW capacity available in the summer on the 230 kV S-line, and 108 MW capacity in the summer on the 92 kV R-line.
- May 22, 2025 -- IID Feasibility Study (250 MW on 230 kV S-line): Concluded: "There were no thermal violations in IID's transmission system" and the "Project did not cause any buses to experience voltage exceedances or deviation."
- July 25, 2025 -- IID System Impact Study (250 MW on 230 kV S-line): Evaluated multiple scenarios and concluded: "Results showed there were no thermal violations in IID's transmission system" and the "Project did not cause any buses to experience voltage exceedances or deviations. Results showed there were no transient stability violations in IID's transmission system under any of the simulated contingencies. Study results show that this **project can be deemed feasible.**"
- September 23, 2025 -- IID System Impact Study (80 MW on 92 kV R-line): Analyzed reliability impacts and concluded the "**Project can be deemed feasible** with some transmission infrastructure upgrades." The required upgrades (installed in the new substation) include a static var device rated 75 MVAR, configured in three switching blocks of 25 MVAR each, to provide reactive power support and voltage stability.

The final step is the Facility Study, which Power Engineers will perform under IID's technical direction. It should be complete this month. The four studies are attached.

### 4. POWER SUPPLY: NO COST SHIFT; GRID-PROTECTIVE OPERATIONS

The data center has agreed to accept non-firm transmission from IID. In effect, if IID experiences peak demand or system constraints, IID can curtail service to the data center. The data center would meet its load using on-site backup batteries. This eliminates risk to IID and its ratepayers. There are three viable pathways to serve the 330 MW load:

- Wholesale market supply from CAISO until long-term PPAs are secured;
- Third-party energy supply with IID providing transmission/wheeling service; or
- Direct purchase from IID at its published wholesale rates.

#### 4.1 Wholesale Market Proposal (CAISO interim supply)

IID is scheduled to begin operating under newly executed agreements with CAISO that enable IID to purchase energy directly from the CAISO wholesale market. We submitted a proposal under which the data center would purchase energy on a short-term basis from the CAISO day-ahead market, with IID providing required scheduling and coordination services. Under this proposal, IID faces no stranded investment risk, no credit risk, and no operational burden beyond defined market participation services, and would be compensated through a cost-plus framework.

All economic and reliability risk is borne by the data center, which pays all energy, capacity, and administrative costs. To eliminate credit exposure, a dedicated account is set up accessible by IID to cover all market charges and related costs. Importantly, because IID retains responsibility for scheduling, coordination, and settlement via the established draw account for the data center, this structure poses no threat of exposing IID to direct access, which IID does not permit

The cost-plus model would compensate IID through (i) a scheduling/coordination fee, (ii) applicable transmission charges, and (iii) an administrative markup. We estimate this structure could generate approximately \$25 million in positive annual revenue to IID. This approach allows the project to proceed while long-term PPAs are secured. This will likely increase demand for new renewable generation in Imperial Valley, which will stay in the Valley rather than export outside the Valley which will reduce grid stress and improve transmission balancing.

#### 4.2 Purchase from Third Parties; pay IID to transmit the load

Imperial County generates approximately 3,090 MW of power, of which roughly 2,000 MW are exported. IID's interconnection queue reflects more than 5 GW of pending projects. However, most of this renewable energy will export out of Imperial Valley.

The data center provides a large, stable local load that enables generation to remain in Imperial Valley. Under this option, the data center would purchase power from third-party suppliers and pay IID to transmit/wheel that power to the project. This approach presents no stranded investment or commodity price risk to IID and is estimated to provide \$15 million in positive annual revenue to IID through transmission-related charges and associated fees.

#### **4.3 Purchase the load from IID at published wholesale rates**

IID publishes wholesale electric service rates designed to recover all costs plus administrative components, including: General Wholesale Power Service (Schedule A-2); High Voltage Rider (Rider HV); Economic Development Rate (Schedule ED). If the data center purchases power directly from IID under these published rates, the annual cost is estimated at approximately \$250 million. Because the rates are structured to ensure cost recovery (including administrative markups), purchasing under published tariffs ensures no cost-shift and no risk to IID or its ratepayers.

### **5. PROTECTING THE GRID: PEAK-SHAVING & 100% RENEWABLE POWER**

The Battery Energy Storage Systems (BESS) provides immediate coverage (milliseconds) for critical loads. The on-site BESS provides immediate support for short-term power disruptions, and the natural gas backup generators provide power during emergency blackouts. The data center campus incorporates large-scale Tesla Megapack battery systems to reduce grid stress. These systems allow the facility to supply its own stored energy during peak hours. Long-term operations are planned to run on 100% renewable energy, including geothermal and solar power sourced from Imperial Valley. Wholesale service is used only as a temporary bridge until full renewable PPAs are in place.

#### **5.1 Supporting Local Renewable Development**

Imperial Valley's geothermal resources currently face limited local demand. The data center helps unlock additional geothermal investment by providing a stable, high-volume renewable power customer. This strategy will further support regional economic development, job creation, and the long-term Lithium Valley vision.

### **6. BACKUP GENERATORS: EMERGENCY USE ONLY, CLEAN, AND PERMITTED**

The backup generators will be connected to dedicated natural gas pipelines and operate solely during electrical outages and routine maintenance and testing. They will not connect to the transmission grid. They will not export electricity to the grid. They are exclusively for ensuring continuous power during an emergency blackout. The onsite 862 Megawatt Hours BESS delivers power within milliseconds for short term interruptions. In an emergency scenario the data center will be powered by the emergency backup generators. Upon the resumption of normal utility power, the automatic transfer switches will intelligently route power back from the utility, without interruption.

State, Federal and County laws permit the generators to operate for a maximum of 100 hours for maintenance and testing. The Data Center agrees to restrict maintenance and testing to 36 hours annually as a permit condition. The Data Center generators will be directly connected to the SoCal Gas pipeline for continuous fuel supply. This eliminates on-site fuel storage. The Data Center will use the Caterpillar G3520 for emergency backup.

Emergency generators will run on clean natural gas, not diesel, and will operate only during limited testing windows. Air quality impacts from these generators are negligible. SoCalGas high pressure natural gas lines are located on the border of the Data Center on Aten Road. The G3520 natural gas generators are U.S. EPA Certified for Emergency applications which ensures that the G3520 meets federal emission standards for backup generators. The backup generators are presently going through APCD for permits for the generators. Attached are reports submitted to APCD for approval of the backup generators.

#### **6.1 Noise-Mitigation**

The Emergency Generator Building will include noise mitigation strategies -- sound enclosures, exhaust silencers, and acoustic barriers -- and acoustic modeling during design. The data center employs advanced noise-mitigation building materials and design practices to ensure compliance with local sound limits. The Data Center will be a state of art facility with appropriate technology to mitigate any sound impact from its operation.

### **7. LAND-USE COMPATIBILITY**

The proposed data center is located on 75 acres already zoned Industrial. The industrial zoning has been in place for over 27 years. Some of the five parcels were zone industrial over 45 years ago. When the City of Imperial annex the land in 1994 our land was already zoned industrial. When the adjacent homes were built, the builder and homeowners were aware that industrial development, including data centers, was a lawful use of the adjacent land. The data center is located on long-established industrial land.

#### **7.1 Zoning Compliance**

The data center campus comprises four structures, the data center building, backup generators, backup batteries, and an electric substation. The 75 acres comprises five parcels. Three are zoned M-2, one is zoned M-1 and a 5 acre parcel is zoned A-2. The industrial zones comprise 70 of the 75 acres (93%).

The data center is located on the M-2, Medium Industrial Zone, where data centers are a permitted use (§ 90516.01(w)). Data centers are also a permitted use in the M-1, Light Industrial Zone. (§ 90515.01(bbb)). The electric substation is located on the M-1 Zone, and it's a permitted use in that zone (§ 90515.01(vvvvvvv)). It is also a permitted use in the M-2 Zone. (§ 90516.01(b)).

The backup batteries and backup generators are located on land zoned M-2. The M-2 zone permits "accessory" structures necessary to the main use and "located on the same lot" as "the primary structure." (§ 90516.01(w)). The battery and backup generators are permitted accessory structures "subordinate" to the primary structure and "customarily incidental" to the main building and "located on the same lot/parcel with the main building." (§ 91404.11).

The 5 acre that is zoned A-2 is located at the southwest corner of the property. Neither that data center, substation, backup generators, nor the backup batteries are located on that parcel. The retention pond is located on the 5 acre parcel, and land which collects water with no structures is a permitted use in the A-2 zone (§ 90508.01).

## 8. COMPLIANCE WITH SITE DEVELOPMENT STANDARDS

The Project's site plan complies with applicable standards for industrial zoning districts, including both M-1 (Light Industrial) and M-2 (Heavy Industrial) requirements.

### 8.1 M-1 Zone Site Development Standards

The site plan satisfies the M-1 Zone requirements:

- Minimum Lot Size (§ 90515.04)
- Yards and Setbacks (§ 90515.06)
- Height Limit (§ 90515.07)
- Minimum Distance Between Structures (§ 90515.08)
- Parking (§ 90515.09)
- Landscaping (§ 90515.11)

### 8.2 M-2 Zone Site Development Standards

The site plan satisfies the M-2 Zone requirements:

- Minimum Lot Size (§ 90516.04)
- Yards and Setbacks (§ 90516.06)
- Height Limit (§ 90516.07)
- Minimum Distance Between Structures (§ 90516.08)
- Parking (§ 90516.09)
- Landscaping (§ 90516.11)

### 8.3 Compliance with Industrial Development Standards

The site plan complies with the County's Standards for Industrial Zones. (§ 90301.02.) Those standards specifically address buffering where industrial uses abut residentially-zoned property, providing that when industrial zoning is adjacent to property zoned for single-family residential use, a six-foot-high masonry wall must be constructed between the proposed development and the adjacent property. (§ 90301.02, subd. J.)

The Project's site plan incorporates this required separation/buffering measure where applicable and, overall, meets the industrial-zone standards--including minimum lot size, setbacks, height, parking, and landscaping--applicable to development in the M-1 and M-2 districts. (§§ 90301.02, subd. J; § 90515.04, § 90515.06--.09, § 90515.11; § 90516.04, § 90516.06--.09, § 90516.11.)

## 9. COMPLIANCE WITH GRADING PERMIT STANDARDS

Imperial County regulates grading, excavation, and earthwork through its adoption of the California Building Code provisions governing grading (including Appendix J) and through its local Grading Regulations. (§ 91011.00 *et seq.*) Together, these requirements establish the administrative process, submittal requirements, technical standards, and inspection controls applicable to grading.

### 9.1 Permit Submittal Requirements

Under the County's grading ordinance, a grading permit application must include detailed plans identifying existing and proposed site conditions and improvements, including: existing and proposed elevations and structures; property lines; irrigation and drainage systems; and protective devices (including fences and barricades) used in connection with the proposed work. (§ 91011.01.) The County often requires supporting technical studies, including an engineer's geological report and a soil engineering report. (§ 91011.01.) For a building pad, this is commonly addressed through a geotechnical report confirming suitable subgrade conditions and specifying compaction and testing requirements to ensure the pad is appropriately prepared for the intended structural load.

### 9.2 Technical Standards (Cut/Fill Slopes)

Imperial County's grading regulations also impose objective design standards for earthwork geometry. In particular, cut and fill slopes are limited to a maximum steepness of 1.5 horizontal to 1 vertical. (§ 91011.02(A)(4).) The grading design will therefore be prepared to comply with these slope limitations (or incorporate engineered alternatives if allowed by the County based on site-specific geotechnical recommendations), and will be reflected in the stamped grading plans submitted for County review.

### 9.3 Implementation and Compliance

The grading plans for the data center campus comply with these requirements by: (1) submitting engineer-stamped grading plans depicting existing/proposed grades, drainage and irrigation features, site protective measures, and relevant structural pads and improvements; (2) providing geotechnical/soils documentation to support pad preparation and compaction specifications for structural support; and (3) designing all cuts and fills to satisfy the County's maximum slope standard of 1.5:1 (H:V). (§§ 91011.01, 91011.02(A)(4).)

## 10. COMPLIANCE WITH LOT MERGER STANDARDS

A voluntary, owner-initiated lot merger must be processed by the County within the statewide lot merger framework. (Gov. Code, § 66451.10 et seq.) Imperial County's implementing procedure -- "Lot Merger Initiated by Property Owner" (Imperial County Zoning Ordinance, § 90808.00 et seq.) -- requires a public hearing at which the County determines whether the "application is categorically exempt under CEQA" and whether the merger satisfies the substantive criteria in § 90808.03.

Under § 90808.03, the County must find, among other things, that: (a) the lots are contiguous; (b) the merger conforms to State and County law; (c) the merged lots were legally created; (d) the merger does not affect any right-of-way; (e) the merger will not impact access; (f) the merger will not restrict access to adjoining lots; (g) the merged lot will not conflict with existing structures; and (h) no new lot is created by the merger.

Here, the merger of five contiguous lots into one lot readily satisfies each of these requirements. The lots are contiguous; the merger conforms to applicable State and County law; the lots were legally created; there is no disqualifying effect on any right-of-way; the merger will not impair access to the merged lot or restrict access to adjoining lots; it creates no conflict with existing structures; and it does not create any new lots. (§ 90808.03.)

### 10.1 Single Base Zoning Rule

Imperial County's split-zoning rule provides "Every lot . . . within the unincorporated areas of the County of Imperial shall be classified in only one of the base zoning areas. . . . Where a zoning map shows two zones on the same parcel the parcel shall have the larger of the two zones applicable to the entire parcel regardless of the map depiction." (§ 90501.01).

The subject property totals approximately 75 acres, consisting of approximately 45 acres zoned M-1, 25 acres zoned M-2, and 5 acres zoned A-2. Because M-1 is the largest base zoning designation by area, application of the County's single base zoning rule means that, upon merger, the consolidated 75-acre parcel would be classified M-1. (§ 90501.01.)

In any event, even assuming arguendo that the pre-merger zoning designations were to remain unchanged post-merger, the industrial zoning designations (M-1 and M-2) allow the Project as of right, independent of the lot merger outcome.

#### 11. MINISTERIAL VS. DISCRETIONARY PROJECTS

California law draws a sharp distinction between ministerial and discretionary approvals. CEQA is only triggered by discretionary approvals. Ministerial approvals involve applying fixed, objective standards. They do not allow subjective judgment to deny or condition the project. **In Imperial County, data centers are a permitted use (“by right”) in an industrial zone**, meaning a compliant project only needs building permits or, at most, staff-level design review for grading, site plan, and lot merger. Because the data center approval is ministerial there is no subjective judgment to deny it.

Ministerial decisions require only a determination of conformity with fixed standards. Imperial County correctly concluded that the grading, site plan, and lot merger, complied with all of its regulations. The County has also correctly concluded that **the grading plan is exempt under CEQA’s ministerial exemption**. “If the lead agency concludes a project is exempt from review, it must issue a notice of exemption citing the evidence on which it relied in reaching that conclusion. **The agency may thereafter proceed without further consideration of CEQA.**” *Union of Med. Marij. Patients, Inc. v. City of San Diego* (2019), 7 Cal. 5th 1171, 1186. Imperial County has correctly followed state law by filing a Notice of Exemption and proceeded without CEQA review.

The project opponents overlook the following:

- The project is ministerial.
- A grading permit is ministerial.
- A lot merger is ministerial.
- A data center in an industrial zone is permitted as of right and is therefore ministerial.
- Ministerial approvals do not involve public hearings.

The project opponents seek to insert public discretion -- and thus CEQA -- where the Legislature has expressly foreclosed it. Doing so would convert straightforward ministerial approvals into an open-ended discretionary process dominated by public opinion, which CEQA forbids. “CEQA does not require an analysis of subjective psychological feelings or social impacts.” (*Preserve Poway v. City of Poway* (2016) 245 Cal.App.4th 560, 579.) The opponents seek a discretionary process in clear violation of CEQA.

The fact that a data center located on industrial land may be controversial, does not alter the fact that it is exempt from CEQA. “Indeed, it is entirely possible, if not **common, for a controversial or unpopular project to be exempt from CEQA**. Neighborhood sentiment is not an impact that must be directly considered in the environmental determination process.” (*McCann v. City of San Diego* (2021) 70 Cal. App. 5th 51, 86.)

## 12. GRADING, SITE PLAN, AND LOT MERGER: MINISTERIAL AND CEQA EXEMPT

Under CEQA, the lead agency, here Imperial County, has exclusive authority to determine whether a project is exempt from CEQA. Imperial County's Zoning Ordinance defines “Ministerial decision” as a “decision requiring the application of the statutes, ordinances, or regulations to the facts as prescribed and involving little or no personal judgment by the public official or decision-making body as to the wisdom or manner of carrying out a project.” (§ 91401.12 ). In Imperial County, a site plan, grading plan and a lot merger are considered ministerial.

Imperial County's consistent practice is to treat grading plans, site plans and lot mergers as exempt from CEQA. Title 14, § 15304, subdivision (a) exempts “grading on land with a slope of less than 10 percent” from CEQA compliance. In *Madrigal v. City of Huntington Beach* (2007) 147 Cal.App.4th 1375, 1379, 1385-1386, the court held that a grading permit for an entire parcel, including elimination of areas of flooding by scraping and filling, was exempt from CEQA review. The County has correctly concluded that:

- The lot merger is compliant with all applicable regulations.
- The site plan is compliant with all applicable regulations.
- The grading plan is compliant with all applicable grading regulations.
- The lot merger, and grading permit are ministerial and therefore exempt from CEQA.

According to the California Supreme Court, the County may therefore “proceed without further consideration of CEQA.” *Union of Med. Marijuana Patients*, 7 Cal.5th at 1186. The City of Imperial has no legal authority to reopen, toll, condition, or otherwise interfere with that determination.

The project opponents seek to insert public discretion -- and thus CEQA -- where the Legislature has expressly foreclosed it. Doing so would convert straightforward ministerial approvals into an open-ended discretionary process dominated by public opinion, which CEQA forbids. Clearly, the project opponents may comment, but they seek instead to create discretion where county laws and state law mandates none.

**13. DIRECT RESPONSES TO YOUR QUESTIONS**

- CEQA Status: The project is exempt under CEQA due to ministerial approvals.
- Negative Declaration: Not applicable; CEQA does not apply to ministerial actions.
- Water Source: 100% reclaimed water/tertiary treated water.
- Energy Source: Short term CAISO wholesale purchase; long-term geothermal/solar.
- Generators: Emergency backup only; EPA certified natural-gas units; no grid export.
- Nearest Residence: The nearest home is located 200 feet from the data center building, it is separated by dense landscape buffer and a six-foot masonry wall.

**14. SUMMARY: RESPONSIBLE, SUSTAINABLE, COMMUNITY-ALIGNED PROJECT**

California property owners are entitled to rely on adopted zoning and development regulations and to seek project approvals under the objective standards in effect. Where a proposed use is permitted by right and the County's role is limited to verifying compliance with fixed, objective requirements, the approval is ministerial and is therefore not subject to CEQA review. Similarly, where State law provides applicable CEQA exemptions, applicants are entitled to rely on those exemptions as written and as implemented through the County's adopted procedures. It would be inappropriate to impose new discretionary criteria, create extra-statutory hearing requirements, or require the County to invent processes that conflict with its adopted ordinances or with State CEQA law. The County should apply the rules on the books -- no more, no less -- and avoid ad hoc procedural additions that would undermine regulatory predictability and invite inconsistent outcomes.

This project has been designed to meet high standards of environmental responsibility while delivering meaningful economic and technological benefits to Imperial Valley. We are committed to public participation, and continued dialogue with community stakeholders. We welcome public input and will respond with facts, documentation, and enforceable operational commitments where appropriate. We will participate in community meetings and coordinate with relevant agencies to ensure the data center campus is implemented responsibly. If residents or stakeholders have specific, project-related requests, we will consider them in good faith and respond promptly and substantively. Thank you for your attention and for your leadership.

Sincerely,

***Imperial Valley Computer Manufacturing, LLC***



Sebastian Rucci, managing member

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DEC 18 2025

IMPERIAL COUNTY  
PLANNING & DEVELOPMENT SERVICES

I am submitting this comment pursuant to Government Code section 54954.3, and I want the record to reflect that it is being made **before deliberation and final action** on the matter.

The notice for this proposed lot merger is legally defective and does not comply with **Imperial County Code section 90104.03**.

This application proposes to merge multiple parcels totaling approximately **71.14 acres** with **mixed current zoning**, including **A-2-U, M-2-U, and M-1-N-U**. Under section 90104.03, the required notice radius is determined by the **existing zoning of the subject parcel at the time notice is issued**, not by proposed zoning and not by the zoning of surrounding properties.

Because the subject parcel includes land zoned **A-2-U**, section **90104.03(C)(2)** requires mailed notice to **all property owners within one-half mile** of the **exterior boundary of the subject parcel**. For a lot merger, the subject parcel is the **combined parcel resulting from the merger**, not any single existing parcel. The ordinance contains **no exception** allowing the County to reduce the notice radius based on parcel size, zoning predominance, or compatibility with surrounding land uses.

The fact that surrounding properties are not zoned A-2 is **legally irrelevant**. The ordinance ties the notice radius to the zoning of the **project site**, not to neighboring zoning.

The County also cannot avoid this requirement by misreading the word "*adjacent*." Section 90104.03 separately requires notice to **contiguous property owners** and to **adjacent property owners within a specified radius**. In this context, "*adjacent*" plainly refers to **nearby properties within the stated distance** and does not require physical contact. Any interpretation that limits "*adjacent*" to touching parcels would nullify the radius requirement entirely.

In addition, the newspaper notice for this hearing was published on **December 10**, which does not satisfy the **minimum notice period** required by section 90104.03. Subsections (C) and (D) require one-time publication in a newspaper of greatest circulation **at least ten (10) days prior to the hearing date**. Publication on December 10 does not meet that minimum if the hearing occurs fewer than ten full days later.

The ordinance requires a **minimum notice period**, not a suggestion. Failure to provide the full ten-day advance publication deprives the public of legally required notice and **independently renders the noticing defective**, regardless of any other mailing or posting efforts.

**Separately and independently, this action is not eligible for categorical exemption under CEQA.** The County has treated this lot merger as exempt under **California Code of Regulations, Title 14, section 15305 (Class 5 – Minor Alterations in Land Use Limitations)**. However, that exemption applies only to actions that "*do not result in any changes in land use or density.*"

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Section 15305 is expressly limited to **minor** actions such as lot line adjustments or reversions to acreage that **do not change land use**. This proposal merges parcels with **different existing zoning designations—A-2-U, M-2-U, and M-1-N-U—into a single parcel**. Changing the site to an unspecified or “N/A” zoning designation, or identifying a single proposed zoning designation for the combined parcel, constitutes a **land-use change**.

**In addition, the County nor Developer has not demonstrated that an adequate and reliable water supply exists for the foreseeable development enabled by this merger.**

There is no confirmed or executed agreement for recycled wastewater procurement, nor has the County disclosed binding infrastructure commitments, capacity assurances, or contingency plans should recycled water not be available. Water supply uncertainty is a core concern, and approving a action that facilitates development without verified water availability further confirms that this project cannot be treated as exempt from environmental review.

**Air quality impacts also preclude reliance on a categorical exemption.** The merger facilitates future grading, construction activity, vehicle trips, and potential operational emissions in an area already subject to regional air quality constraints. These impacts are not speculative; they are reasonably foreseeable consequences of the land-use action. CEQA does not permit the use of a categorical exemption where there is a reasonable possibility that the activity may have a significant effect on the environment, including air quality.

Taken together, the County's failure to provide the required **one-half-mile mailed notice**, its failure to meet the **minimum newspaper publication period**, and its **improper reliance on a CEQA exemption that does not apply**, compounded by unresolved **water supply and air quality** concerns, deprived the public of meaningful notice, meaningful participation, and lawful environmental review. These defects are not harmless. They go to the core of procedural due process and invalidate this hearing. For these reasons, this Commission should **deny the request to treat this action as CEQA-exempt**, should **not approve the lot merger**, and should require **proper re-notice and a new hearing** conducted in full compliance with County code, CEQA, and the Brown Act.

Thank you,

John Tackel

City of Imperial Resident

**PC ORIGINAL PKG**

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***IMPERIAL VALLEY COMPUTER MANUFACTURING, LLC***

16400 Pacific Coast Highway, Suite 212

Huntington Beach, CA 92649

Phone: (562) 901-0199

Fax: (562) 249-6910

Email: Sebastian@RucciLaw.com

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December 17, 2025

County of Imperial Planning Commission  
801 Main Street  
El Centro, CA 92243

Re: December 18, 2025 Planning Commission Meeting; Agenda Item 2,  
Consideration of Lot Merger No. 00191

Dear Chairman Schaffner and Honorable Members of the Planning Commission:

The City of Imperial has submitted a written objection to the proposed lot merger. The City's objections rest on misreadings of Imperial County ordinances and governing state law. The applicant respectfully submits this response for inclusion in the administrative record to correct the City's factual and legal errors.

1. **THE LOT MERGER APPLICATION INCLUDED THREE OWNER'S AFFIDAVITS**

The City of Imperial asserts that IVCM falsely attested on October 3, 2025, that it was the sole owner of the subject properties and that "no property owner affidavits were submitted" with the lot merger application. This claim is incorrect.

On Aug. 6, 2025, nearly two months before the lot merger filing, the County received notarized affidavits from each of the three property owners expressly authorizing IVCM to submit applications for "entitlements, site plans, lot mergers, and building permits" on their behalf (**Exhibit A**). Thus, at the time the application was processed, the County already possessed written authorization from all owners permitting the lot merger application. The City's objection mischaracterizes the application record and applicable procedure.

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2. **THE LOT MERGER COMPLIES WITH THE COUNTY LOT MERGER PROCEDURE**

The “Lot Merger Initiated by Property Owner” procedure set forth in Imperial County Zoning Code § 90808.03 requires findings that:

- (A) the lots are contiguous;
- (B) the merger conforms to state and county law;
- (C) the lots were legally created;
- (D) no right-of-way is affected;
- (E) access is not impaired;
- (F) access to adjoining lots is not restricted;
- (G) no conflict with existing structures is created; and
- (H) no new lot is created.

Section 90808.08 expressly authorizes approval with conditions, providing that “[u]pon compliance with all conditions of approval, the Planning Director shall record a Lot Merger Certificate of Compliance.”

The City contends that Government Code § 66499.20.3 allows merger only of parcels under common ownership. The applicant agrees—and accepts as a condition of approval—that all parcels will be placed into common ownership prior to recordation of the lot merger. With this condition, the merger satisfies every requirement of § 90808.03. The lots are contiguous, legally created, create no new parcels, impair no access, and conflict with no structures. The merger fully complies with both state and county law.

3. **LEIMGRUBER ROAD WILL BE VACATED AS CONDITION OF APPROVAL**

The applicant agrees, as a condition of approval, that Leimgruber Road will be vacated prior to recordation of the lot merger. Leimgruber Road has long been abandoned and is unused; the land on both sides of the roadway is vacant. Accordingly, the merger will not affect any functional right-of-way..

**4. LOT MERGER COMPLIES WITH ZONING; DATA CENTER IS A PERMITTED USE**

The proposed data center campus is located within M-1 (Light Industrial) and M-2 (Medium Industrial) zones. The Battery Energy Storage System (BESS) is located in the northwest portion of the site within the M-2 zone. The utility substation is located to the south within the M-1 zone. A five-acre retention pond is located at the southwest corner within the A-2 Agricultural zone (Exhibit B).

Each component is a permitted use within its respective zoning designation:

**M-2 Medium Industrial Zone**

- “data centers” are a permitted use in the M-2 zone (§ 90516.01(w))
- On-site BESS facilities are permitted “accessory” structure necessary for the primary use and on the same lot as the primary structure (§ 90516.01(w))

**M-1 Light Industrial Zone**

- “data centers” are a permitted use in M-1 (§ 90515.01(bbb))
- “utility substations” are a permitted use in M-1 zone (§ 90515.01(vvvvvvvv))

**A-2 Agricultural Zone**

- Open space retention ponds are permitted in all zones, including A-2 (§ 90508.01)

Notably, the City’s 2025 Service Area Plan, approved by LAFCO on June 26, 2025, designates the 75-acre area—upon annexation—as **railroad industrial**, the City’s most intensive industrial zoning classification. For decades, the property has carried an industrial zone and is located adjacent to major infrastructure, including high-voltage transmission lines and railroad corridors. Longstanding zoning provides predictability and notice regarding appropriate land uses, and this project aligns squarely with those expectations.

5. **THE CITY MISREADS THE COUNTY’S SINGLE BASE ZONING RULE**

The City’s objection hinges on a misinterpretation of § 90501.01, which provides:

“Every lot . . . within the unincorporated areas of the county of Imperial shall be classified in only one of the base zoning . . . EXCEPTION: **Parcels greater than forty (40) acres in net area may be divided by zoning district boundaries . . .**”

The ordinance expressly allows parcels larger than 40 acres to retain multiple zoning designations. No provision of the County Code requires rezoning as a condition of a lot merger. The merged 75-acre parcel lawfully retains its existing M-1, M-2, and A-2 zoning. The City’s objections directly contradicts the plain language of § 90501.01.

6. **THE LOT MERGER IS CONSISTENT WITH THE GENERAL PLAN**

Section 90102.03 requires the Planning Department to review applications for compliance with zoning regulations and the General Plan.

On September 4, 2025, the Planning Department confirmed in writing that the proposed AI data center campus “is consistent with the current zoning” and that all ancillary components—generators, substations, BESS, water treatment systems, cooling yards, and related infrastructure—are permitted uses incidental to the primary data center operation.

A determination that a use is permitted under zoning constitutes a per se finding of General Plan consistency. The City’s objections ignore the required deference to the County’s interpretation and application of its own ordinances.

7. **THE LOT MERGER IS EXEMPT FROM CEQA**

Section 90808.03 requires the County to determine whether a lot merger is categorically exempt from CEQA. Under § 90102.03, the Planning Director has original

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jurisdiction to approve CEQA documentation.

Where a project is exempt, the agency may proceed without further CEQA review. (*Union of Med. Marijuana Patients, Inc. v. City of San Diego* (2019) 7 Cal.5th 1171, 1186.)

The City attempts to convert a ministerial lot merger into a discretionary approval that does not exist. “Ministerial” does not mean unregulated—it means that applicable rules are fixed and applied uniformly, without open-ended political discretion.

The City’s attempt to trigger CEQA by inventing discretion has no legal foundation. To date, the project has required and obtained extensive technical review, including: required us to secure the following studies.

- Traffic Study (confirming minimal traffic use)
- Water Study (reclaimed water from City of Imperial and City of El Centro)
- Air Compliance Permit (showing all air requirements are met)
- Health Risk Assessment (showing no risk from emergency backup generators)
- IID Electric Studies (studies confirm electric load does not impact the lines)
- Soils study (no problematic soils)
- Biological Study (no endangered species on-site)
- Phase 1 Environmental Report (no environmental issues)
- Gas Study (gas available for backup generators)
- Site Plans (project complies with existing zoning)
- Grading Plans (minor grading complies with County code)
- Lot Merger Plans (75-acre merged lot retains existing zoning)

8. **AIRPORT LAND USE COMMISSION IS NOT REQUIRED TO REVIEW LOT MERGER**

The City contends that Airport Land Use Compatibility Plan review is required. That requirement applies to building permit applications, not to ministerial lot mergers. When a building permit is submitted, ALUC review will occur as required.

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8. **CONCLUSION**

The City of Imperial's objections rest entirely on an erroneous premise—that the County's zoning code requires rezoning of a merged parcel exceeding 40 acres. The code says exactly the opposite.


The proposed lot merger complies with Imperial County ordinances, state law, the General Plan, and CEQA. The City's challenge seeks to rewrite settled rules mid-process and should be rejected.

For these reasons, the applicant respectfully requests that the Planning Commission deny the City's objections and allow the lot merger to proceed.

Thank you for your consideration..

Sincerely,

Imperial Valley Computer Manufacturing, LLC

  
Sebastian Rucci, managing member

# Exhibit A Owner's Affidavit's (8-06-25)



planning • design • project management

t:760.353.8110 1065 State Street info@dde-inc.net  
 f:760.352.6408 El Centro, CA 92243 www.dde-inc.net

TO: Mr. Jim Minnick  
 801 Main Street El Centro, CA 92243

Letter of Transmittal

DATE: 8/6/2025	JOB NO. D25001-03
ATTENTION: Mr. Jim Minnick	
First Submittal	

- WE ARE SENDING YOU
- Via facsimile machine to # \_\_\_\_\_
  - Via \_\_\_\_\_ the following attached items:
  - Via hand delivery by: Lyndsey Carr
  - Pay Estimates     Blueprints     Miscellaneous materials     Specifications
  - Copy of letter     Change order     \_\_\_\_\_

COPIES	DATE	No.	DESCRIPTION
1	8/4/2025	1	Jesus Barriga - Owner's Affidavit
1	8/4/2025	2	Aten Properties, LLC; Ryan Dickerson member - Owner's Affidavit
1	8/6/2025	1	Hermenegilda Leimgruber, Trustees of The Max and Hermenegilda Leimgruber Living Trust Survivor's Trust, U/A dated August 14, 2024
1	7/30/2025	1	Notice to Applicant - Rucci
2	2025	24	Owner's Purchase and Sale Agreement

RECEIVED  
 AUG 06 2025  
 IMPERIAL COUNTY  
 PLANNING DEVELOPMENT SERVICES



- THESE ARE TRANSMITTED as checked below:
- For approval     Approved as submitted     Resubmit \_\_\_\_\_ copies for approval
  - For your use     Approved as noted     Submit \_\_\_\_\_ copies for distribution
  - As requested     Returned for corrections     Return \_\_\_\_\_ corrected prints
  - For review and comment     \_\_\_\_\_
  - PRINTS RETURNED AFTER LOAN TO US     FOR BIDS DUE 20

REMARKS: Any questions please give us a call. (760)353-8110

↓ Planner.  
 # GIBRARDI CRUSIER

COPY \_\_\_\_\_

SIGNED \_\_\_\_\_

RECEIVED BY \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_

PC ORIGINAL PKG

# OWNER'S AFFIDAVIT

In the event the applicant is not owner, the following shall be signed and acknowledge by the owner.

Permission is hereby granted to Imperial Valley Computer Mfg, LLC and Dubose Design Group, Inc. to apply for this  
(Equitable Owner-Purchaser and/or Civil Engineer)

Entitlement, Site Plans, Lot Merger and Building Permits on the described property located at address

291 W. Aten Road, Imperial, California 92251 Further identified by Assessor's Parcel Number

044-220-046 (45ac) is hereby granted.

OWNER (SIGNATURE)

[Handwritten Signature]  
Hermenegilda Leimgruber, Trustees of The Max and Hermenegilda  
Leimgruber Living Trust Survivor's Trust, U/A dated Aug. 14, 2024

OWNER (TYPED OR PRINT)

Aug. 6, 2025

DATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

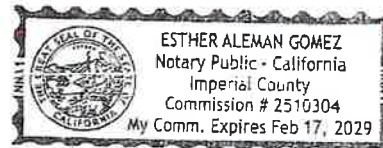
STATE OF CALIFORNIA )  
COUNTY OF IMPERIAL ) S.S.

On August 6, 2025, before me, ESTHER ALEMAN GOMEZ, Notary Public personally appeared Hermenegilda Leimgruber, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature [Handwritten Signature] (Seal)



**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 Owner's Affidavit  
Number of Pages 1  
Date of Document August 2, 2025  
Signer Other Than Named Above Hermenegilda Leimgruber

PC ORIGINAL PKG

**OWNER'S AFFIDAVIT**

In the event the applicant is not owner, the following shall be signed and acknowledge by the owner.

Permission is hereby granted to Imperial Valley Computer Mfg, LLC and Dubose Design Group, Inc. to apply for this  
(Equitable Onwer-Purchaser and/or Civil Engineer)

Entitlement, Site Plans, Lot Merger and Building Permits on the described property located at address

291 W. Aten Road, Imperial, California 92251 Further identified by Assessor's Parcel Number

044-220-045 (10ac), 044-220-044 (9.7ac), and 044-220-042 (5ac) is hereby granted.

Ryan Dickerson  
OWNER (SIGNATURE)

Aten Properties, LLC; Ryan Dickerson member  
OWNER (TYPED OR PRINT)

839 Engwood Rd, Hemet CA  
OWNER'S ADDRESS 92249

8/4/2025  
DATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
COUNTY OF IMPERIAL ) S.S.

On August \_\_\_\_\_, 2025, before me, \_\_\_\_\_, personally appeared Ryan Dickerson, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

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 owners Affidavit  
Number of Pages 1  
Date of Document August 2, 2025  
Signer Other Than Named Above Ryan Dickerson

**CALIFORNIA ACKNOWLEDGMENT**

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Imperial

On August 4, 2025 before me,

Kayla Smail, Notary Public  
*Here Insert Name and Title of the Officer*

personally appeared Ryan Dickerson  
*Name(s) of Signer(s)*

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.



Place Notary Seal and/or Stamp Above

Signature [Handwritten Signature]  
*Signature of Notary Public*

**OPTIONAL**

*Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: \_\_\_\_\_

Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

Corporate Officer – Title(s): \_\_\_\_\_

Partner –  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

Corporate Officer – Title(s): \_\_\_\_\_

Partner –  Limited  General

Individual  Attorney in Fact

Trustee  Guardian or Conservator

Other: \_\_\_\_\_

Signer is Representing: \_\_\_\_\_

**OWNER'S AFFIDAVIT**

In the event the applicant is not owner, the following shall be signed and acknowledge by the owner.

Permission is hereby granted to Imperial Valley Computer Mfg, LLC and Dubose Design Group, Inc. to apply for this  
(Equitable Onwer-Purchaser and/or Civil Engineer)

Entitlement, Site Plans, Lot Merger and Building Permits on the described property located at address

2304 Clark Road, Imperial, California 92251 Further identified by Assessor's Parcel Number

044-220-007 (5ac) is hereby granted.

*Jesus Barriga*  
OWNER (SIGNATURE)

Jesus Barriga  
OWNER (TYPED OR PRINT)

39560 Jewell Valley Wy, Boulevard  
OWNER'S ADDRESS CA 91905

8/4/25  
DATE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
COUNTY OF IMPERIAL ) S.S.

On August 4<sup>th</sup>, 2025, before me, Laila Rodriguez, Notary Public, personally appeared Jesus Barriga, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature *Laila Rodriguez* (Seal)

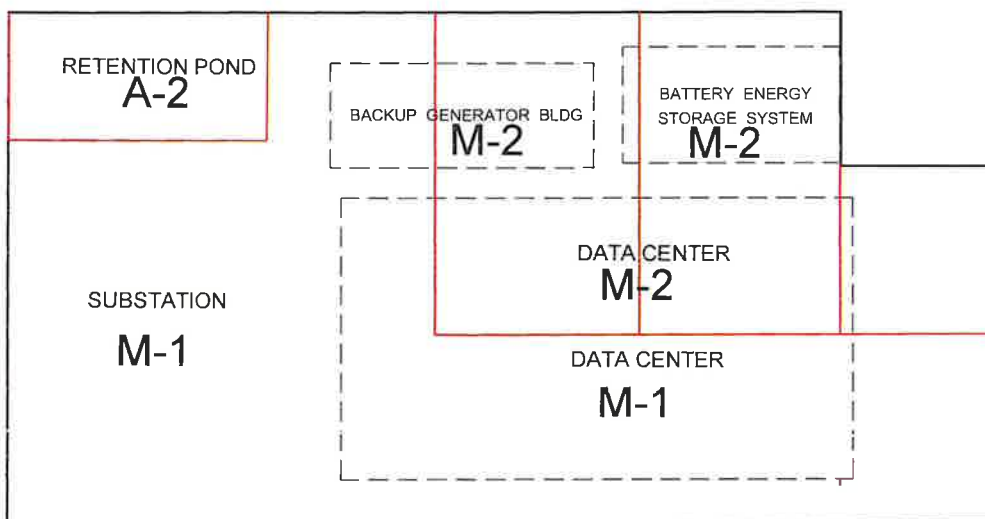
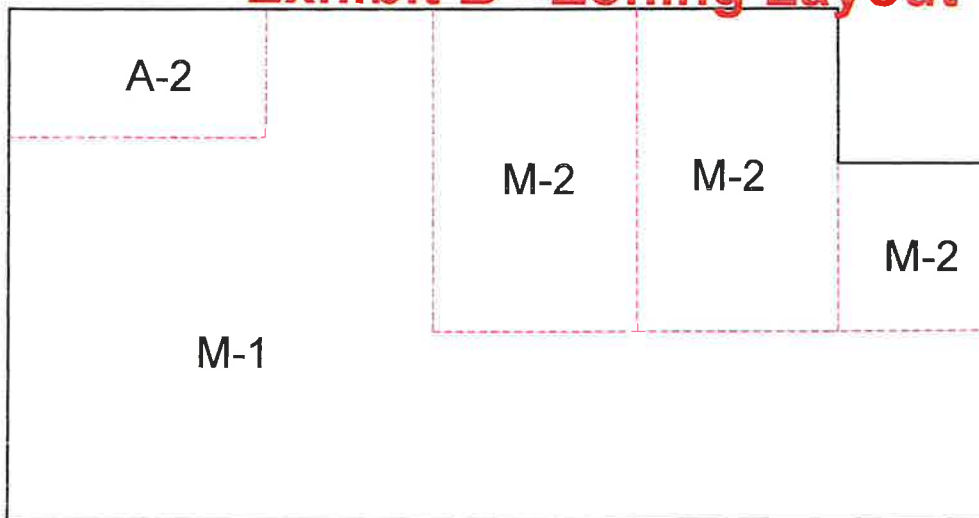


**ATTENTION NOTARY:** Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

Title or Type of Document owners Affidavit  
Number of Pages 1  
Date of Document August 2, 2025  
Signer Other Than Named Above Jesus Barriga

**PC ORIGINAL PKG**

## Exhibit B - Zoning Layout



**ATTACHMENT "H"**

**NATHAN O GEORGE, OUTSIDE COUNSEL FOR THE  
COUNTY OF IMPERIAL MEMORANDUM**



REMY | MOOSE | MANLEY  
LLP

M E M O R A N D U M

To: Board of Supervisors of the County of Imperial

From: Nathan O. George, Outside Counsel for the County of Imperial

Date: April 2, 2026

Re: Analysis of Statutory Exemption for Imperial Valley Computer Manufacturing Data Center as a Ministerial Project

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**APPLICANT:** Imperial Valley Computer Manufacturing, LLC (IVCM)

**DESCRIPTION:** Applicant proposes to build a 950,000-square-foot Artificial Intelligence Data Center Campus (“Project”) to be located on the southeast corner of Aten and Clark Roads in Imperial County, California. The Project will include accessory uses including an electrical substation, an on-site Battery Energy Storage System for backup power (“BESS”), and natural gas backup power generation . The Project site includes a total of 75.39 acres, the majority of which is zoned industrial (M-1-N-U and M-2-U). One approximately 5-acre parcel in the southwest corner of the site is zoned agricultural (A-2-U) and will be the location of a retention basin.

**LOCATION:** The Project site is located at 2304 Clark Road, Imperial, California. The five parcels include APNs 044-220-007, 044-220-042, 044-22-044, 044-220-045, and 044-220-046.

**REQUESTED ACTIONS:**

1. Determine whether the whole project is ministerial within the meaning of Public Resources Code section 21080, subdivision (b)(1), and therefore statutorily exempt from review under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.) (“CEQA”).

**RECOMMENDED ACTIONS:**

Staff recommend, based on the whole of the administrative record, that the Board determine that the IVCM Data Center project is a ministerial project exempt from CEQA pursuant to Public Resources Code section 21080, subdivision (b)(1).

**BACKGROUND INFORMATION:**

## **Administrative Proceedings**

IVCM submitted development plans to the County Planning Department on July 29, 2025, for Design Review. On September 4, 2025, the Planning Department sent a letter to IVCM regarding Design Review that (1) determined that the proposed uses (including the Data Center and ancillary uses, including the substation, BESS, and generators) on the Project site were permissible “by-right” under the Imperial County Municipal Code, and (2) identified Building Code issues with the application and provided options for ensuring compliance with the Building Code. The applicant then submitted an application for lot merger on October 3, 2025, and an application for a grading permit on October 21, 2025. The Planning Commission sent out a request for comments on November 3, 2025. A Planning Commission meeting was held on December 18, 2025, in which the Commission reviewed the proposed lot merger but failed to either approve or deny the application. Also on December 18, 2025, IVCM appealed the Planning Commission’s decision to the Board of Supervisors. On January 6, 2026, IVCM applied for the vacation of Leimgruber Road.

## **Legal Proceedings**

On December 4, 2025, the City of Imperial filed a petition for writ of mandate alleging the County violated the County Code, the General Plan, State Planning and Zoning Law and CEQA. Among other things, the City asserts that the Project is not ministerially exempt under CEQA and thus, environmental review of the Project is required.

## **CEQA DETERMINATION:**

Staff recommend that the Board determine that the Project is statutorily exempt from the environmental review requirements of CEQA for the following reasons:

Public Resources Code section 21080, subdivision (b)(1), provides that CEQA does not apply to ministerial projects proposed to be carried out or approved by public agencies. An agency decision is ministerial if the decision “involve[es] little or no personal judgment by the public official as to the wisdom or manner of carrying out the project,” rather the decision making is based on “fixed standards and objective measurements.” (Cal. Code Regs., tit. 14, div. 6, ch. 3 (“Guidelines”), § 15369, providing an example of a ministerial building permit for a permitted use in a particular zone.) A discretionary project, alternatively, is defined as one “which requires the exercise of judgment or deliberation when the public agency or body decides to approve or disapprove a particular activity, as distinguished from situations where the public agency or body merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.” (Guidelines, § 15357.)

A project is ministerial where the “agency has no discretionary authority to deny or shape the project.” (*Protecting Our Water & Environmental Resources v. County of Stanislaus* (2020) 10 Cal.5th 479, 494 (*Protecting Our Water*).) And even if “an agency [has] *some* discretionary

authority over an aspect of a project, the project is ministerial for CEQA purposes if the agency lacks authority to address *environmental* impacts.” (*Ibid.*) Given that the purpose of CEQA environmental review is to identify and mitigate environmental impacts of new construction, CEQA only “requires assessment of environmental consequences *where government has the power* through its regulatory powers *to eliminate or mitigate one or more adverse environmental consequences* a study could reveal.” (*Friends of Westwood, Inc. v. City of Los Angeles* (1987) 191 Cal.App.3d 259, 266–267, italics added.) Where no such discretionary power exists, a project is ministerial and CEQA review is not required. (*Protecting Our Water, supra*, 10 Cal.5th at p. 494; see e.g. *McCorkle Eastside Neighborhood Group v. City of St. Helena* (2018) 31 Cal.App.5th 80, 94 (*McCorkle*), [finding housing project was ministerially approved because the agency discretion was limited to design review ordinance lacking authority to address environmental effects]; see also *Health First v. March Joint Powers Authority* (2009) 174 Cal.App.4th 1135, 1144 [concluding large distribution warehouse application was ministerially approved since it was based on consistency with Specific Plan adopted upon comprehensive environmental review].)

Under CEQA, a “project” is defined as the whole of the action pending before a government agency, not each separate approval or entitlement. (Guidelines, § 15378.) As such, a project is only ministerial if the approving agency lacks discretionary authority to address environmental impacts of the whole project. (See *McCorkle, supra*, 31 Cal.App.5th at p. 94 [city lacked discretion to address environmental impacts despite design review authority].) Here, County staff determined that each component of the project is bound by statutory provisions and/or local ordinances limiting the County’s judgment in considering the various aspects of the Project to fixed standards and objective measures restricting the ability to meaningfully address potential environmental concerns. Thus, County staff determined that the project is statutorily exempt from CEQA as ministerial pursuant to Public Resources Code section 21080, subdivision (b)(1). Each project entitlement subject to County approval and the applicable statutory and regulatory provisions support this determination.

### **Lot Merger**

The applicant submitted an application to merge five parcels, including Leimgruber Road, to accommodate the siting of the Project. The total acreage of the resulting merged parcel would be approximately 75.39 acres. Imperial County Code section 90808.03 provides the relevant lot merger procedure:

The Planning Director<sup>1</sup> shall conduct a public hearing and approve or deny the lot merger based on consistency with the following determination if the application is categorically exempt under CEQA, or if further environmental documentation is required.

- A. All the lots or parcels are contiguous.

---

<sup>1</sup> The County Code also permits the Planning Commission to make the initial decision on a lot merger. (Imperial County Code, §§ 90808.04 & 90808.06.)

- B. Whether the lot merger conforms to State law and County Ordinance.
- C. The lot merger is between lots or parcels that were created by a parcel or tract map consistent with the Subdivision Map Act and County Ordinance in effect at the time they were created.
- D. The lots or parcels are not separated or affected by any easement, right-of-way, road, alley or canal (including public utility easements).
- E. The parcel as merged will not be deprived access as a result of the merger.
- F. Access to the adjoining parcels will not be restricted by the merger.
- G. The parcel as merged will not conflict with the location of any existing structures on the property.
- H. No new lot or lots are created through the merger.

This ordinance provides an exhaustive list of requirements for approval of a lot merger which are fixed, objectively measurable standards. The lot merger application here satisfies each of the objective standards set by the lot merger ordinance. All of the parcels are contiguous as each parcel borders one another. As determined by the Planning Department, the merger conforms to State law and County Ordinance, and the parcels were created consistent with the Subdivision Map Act and County Ordinance. While Leimgruber Road passes through the parcels, the applicant has applied for summary vacation of the road so the parcels will be contiguous before the merger is finalized and recorded. Additionally, the merged parcel will maintain access from Aten Road and Clark Road, and the adjoining parcels will not be deprived of access as a result of the merger. There will be no conflict with existing structures on the merged parcel, nor will the merger create any new lots.

There is no room for personal judgment or to shape the project in an environmentally meaningful way. Since the ordinance's standards are satisfied, the application must be approved, and there is no basis to impose environmental mitigation as a condition of such approval. Given that the County lacks discretion under the lot merger ordinance to change the project to address potential environmental impacts, the lot merger is ministerial and therefore exempt from CEQA review.

### **Summary Vacation**

The applicant also seeks summary vacation of Leimgruber Road which passes through the parcels. Summary vacation is governed by Health and Safety Code sections 8330 et seq. The County is authorized to summarily vacate roads under sections 8334. Section 8334 states a local agency may summarily vacate “[a]n excess right-of-way of a street or highway not required for street or highway purposes [and] [a] portion of a street or highway that lies within property under one ownership and that does not continue through such ownership or end touching property of another.” These statutes provide specific, objective criteria that must be met for summary vacation of a road. Each of these conditions limit the judgment and discretion of the local agency.

The proposed vacation of Leimgruber Road meets the conditions required for a summary vacation under section 8334. Leimgruber Road is an excess right of way as it is not necessary for access to any other parcels, and the merged parcel will be accessible from Aten and Clark Roads. Additionally, the road lies within property under one ownership. Leimgruber Road does not continue through or end touching any property of another. The only property touching Leimgruber Road are the lots owned by the applicant that will be merged into a single lot under the merger procedure above.

Sections 8335 and 8336 set forth the procedural standards for implementation of a summary vacation. The sections specify that the legislative body may vacate a street under the authority of the Summary Vacation chapter by adopting a resolution of vacation. Specifically, section 8335 states, in pertinent part, that:

- (b) The resolution of vacation shall state all of the following:
  - (1) That the vacation is made under this chapter.
  - (2) The name or other designation of the street, highway, or public service easement and a precise description of the portion vacated. The description of the portion vacated may be by a precise map which is recorded or to which reference is made in the resolution and which is permanently maintained by the public entity.
  - (3) The facts under which the summary vacation is made. If the vacation is made pursuant to Section 8332, the statement shall include the date of the agreement. The resolution is prima facie evidence of the facts stated.
  - (4) That from and after the date the resolution is recorded, the street, highway, or public service easement vacated no longer constitutes a street, highway, or public service easement.
  - (5) If the resolution of vacation applies to a public service easement vacated by a public officer or employee delegated authority pursuant to subdivision (a), a certification that all entities having any right, title, or interest in the public service easement being vacated have been notified of this action.

Notably, these provisions do not afford any discretion to the agency when considering a summary vacation. Here, the road vacation resolution would state: (1) that it is made under the Summary Vacation chapter of the Streets and Highways Code; (2) that Leimgruber Road, in its entirety, is to be summarily vacated and incorporate by reference the precise, recorded map showing the location of Leimgruber Road; (3) that Leimgruber Road constitutes an excess right-of-way of a street not required for street purposes and a portion of a street or highway that lies within property under one ownership and that does not continue through such ownership or end touching property of another; and (4), that from recordation of the resolution Leimgruber Road no longer constitutes a street.

Similar to the lot merger ordinances, the summary vacation statutes limit the County's discretion in considering the proposed street vacation. The statute provides specific, objective standards that must be satisfied, and there is no statutory authority to impose additional conditions beyond the stated standards. As such, the proposed summary vacation is ministerial and does not require CEQA review.

## **Grading Permit**

The applicant also applied for a grading permit for the Project. Imperial County Code section 91011.02 specifies the standards which, once met, allow for issuance of a grading permit. This section states:

Permit, conditions required for issuance

- A. After the data required to be submitted pursuant to Section 91010.01 has been reviewed by the county engineer, he may issue a grading permit if all of the following conditions exist:
  1. If the proposed grading, excavation or earthwork construction is of irrigateable land that said grading will not cause said land to be unfit for agricultural use.
  2. The depth of the grading, excavation or earthwork construction will not preclude the use of drain tile in irrigated lands.
  3. The grading, excavation or earthwork construction will not extend below the water table of the immediate area.
  4. Where the transition between the grading plane and adjacent ground has a slope less than the ratio of one and one-half feet on the horizontal plane to one foot on the vertical plane, the plans and specifications will provide for adequate safety precautions.

(Imperial County Code, § 91011.02.) In determining whether to issue the grading permit, County Code section 91011.03 states:

The county engineer shall consider such application, pursuant to policies established by the Board of Supervisors and either grant to the permit, subject to any condition designed to accomplish the purpose of this Chapter or deny the same or refer the matter to the Board of Supervisors with or without recommendations. ... [If a denial is appealed, the] Board of Supervisors may issue such permit, if, in the opinion of said Board, the proposed grading, excavation or earthwork construction or use will not be in conflict with the purposes of this Chapter. The Board of Supervisors may refuse to issue such permit or may issue such permit subject to specified conditions designed to accomplish the purpose of this Chapter.

The applicable ordinance provides four objective standards that must be satisfied in order to issue a grading permit. (County Code, § 91011.02.) The County may not deny the permit application unless there is a conflict with the County's Grading Permit Chapter. (County Code, § 91011.03.) The County may impose conditions on the approval of the grading permit, but these conditions are limited to the purpose of the Grading Permit Chapter. (*Ibid.*) The standard conditions listed in section 91011.02 contain objective standards regarding maintaining

agricultural use, irrigation of agricultural land, avoiding work below the water table, and ensuring the protection of adjacent land. (County Code, § 91011.02.) These standards and the circumstances of the Project do not afford discretion to shape the Project in an environmentally meaningful way. (See *Protecting Our Water, supra*, 10 Cal.5th at 494 [even if “an agency [has] some discretionary authority over an aspect of a project, the project is ministerial for CEQA purposes if the agency lacks authority to address *environmental* impacts.]) While the Board of Supervisors is also afforded power to approve or deny a grading permit, subject to a timely appeal, the Board is still limited to the standards imposed in the Grading Chapter.

The Project satisfies the conditions required under Imperial County Code section 91011.02. First, the Project does not involve irrigateable agricultural land or irrigation so the first two conditions do not apply. Nearly the entirety of the merged parcel, except approximately 5 acres, are zoned industrial and the Project does not include irrigating the land (with the exception of minimal landscaping). The remaining 5 acres are zoned agricultural, but will only serve as a retention basin. Second, grading the site, including for the retention basin will not extend below the water table of the immediate area. Third and finally, the grading plans, which have been reviewed by County staff, satisfy slope grading and safety requirements. Given that the Project satisfies the objective criteria of the grading chapter, the permit must be approved and there is no authority to impose environmental mitigation. Thus, the grading permit is also ministerial and not subject to CEQA review.

### **Airport Land Use Compatibility Plan Review**

Review of the project’s consistency with the Airport Land Use Compatibility Plan (ALUCP) is also a ministerial determination. As a preliminary matter, the applicable ALUCP is the prior Imperial County ALUCP that was in effect on November 5, 2025. Since the lot merger application was “deemed complete” on November 5, 2025, prior to the February 18, 2026, adoption of the new ALUCP, the ALUCP in effect at the time the project application was deemed complete, is the applicable plan. (See Imperial County ALUCP, effective February 18, 2026, section 2.5.2.)

The “Airport Land Use Compatibility Plan sets forth the criteria and policies which the Imperial County Airport Land Use Commission [“Commission”] will use in assessing the compatibility between the principal airports in Imperial County and proposed land use development in the areas surrounding them.” (Imperial County ALUCP, p. 1-1.) The ALUCP directs the Commission to review all building permit applications for projects with a valuation greater than \$500,000 for consistency with the plan. (*Id.* at p. 2-4.) Thus, the project here requires Commission review.

Most important here, in reviewing project applications, the “Commission has a choice of either of two actions: (1) find the project consistent with the ALUCP; or (2) find the project inconsistent with the Plan. In making a finding of inconsistency the commission may note the conditions under which the project would be consistent with the Plan. The Commission *cannot*, however, find a project consistent with the Plan *subject to the inclusion of certain conditions* in

the project.” (*Id.* at p. 2-4, italics added.) Thus, the ALUCP explicitly restricts imposing conditions on a project, limiting the Commission’s ability to meaningfully address a project’s environmental impacts.

Additionally, consistency with the ALUCP is determined based on fixed and objectively measurable standards that largely focus on the existing environment’s impact on a potential project. These standards require specific population density limits, use prohibitions, and safety standards. (Imperial County ALUCP, p. 2-17.) These are intended to reduce existing environmental impacts, such as noise, on potential project users. The Project lies in Zone C of the ALUCP for the Imperial County Airport. (*Id.* at p. 3-11.) The Commission will review the project application for compliance with the enumerated compatibility factors. Zone C is described as having frequent noise intrusion and thus compatibility factors specify a maximum density of 200 people per acre, declaring normally acceptable uses warehousing, truck terminals, low-intensity retail, offices, low-intensity manufacturing, food processing, and two-story motels. (*Id.* at p. 2-17.) Zone C prohibits schools, hospitals, nursing homes, and hazards to flight. (*Id.*) Hazards to flight are land uses which may produce hazards to aircraft in flight. (*Id.* at p. 2-14–2-15.) “Specific characteristics to be avoided include: (1) glare or distracting lights which could be mistaken for airport lights; (2) sources of dust, steam, or smoke which may impair pilot visibility; (3) sources of electrical interference with aircraft communications or navigation; and (4) any use which may attract large flocks of birds, especially landfills and certain agricultural uses.” (*Ibid.*)

The Project is consistent with normally accepted uses in Zone C. A data center is similar to the warehousing and low-intensity manufacturing uses allowed within Zone C. Additionally, the Project will not exceed maximum density restrictions. Nor will the Project maintain characteristics hazardous to flight. The Project will not include features that produce glare or distracting lights, will not emit dust, steam or smoke in amounts that may impair pilot visibility, will not cause interference with aircraft communication or navigation, and will not attract large flocks of birds. Accordingly, the Project should be deemed consistent with the ALUCP.

If the Commission finds consistency, the Commission will issue a consistency finding. If the project is inconsistent, the Commission will make an inconsistency finding and note the conditions, if any, that would establish consistency. These powers do not grant the Commission or the County the authority to impose discretionary conditions to address environmental impacts from the project. The ALUCP consistency review is therefore ministerial and does not trigger CEQA review.

### **Air Pollution Control District Permitting**

The applicant has also sought a permit from the Imperial County Air Pollution Control District (“APCD”) for the natural gas generators included in the project. The APCD’s permitting process is also ministerial in nature.

Under the APCD rules, a permit for Minor Projects shall be considered ministerial. (APCD Rule 206 B.1.) Minor Projects are defined as “a Project for which uncontrolled emissions will not exceed 35 lbs/day of any pollutant, and for which there will be no emission of pollutants which are toxic Air Contaminants or for which the District has been designated nonattainment.” (APCD Rule 206 A.5.) Under Rule 207 – C.1.h, for emergency standby equipment, “only those emissions which occur during routine operation of the Equipment for maintenance purposes shall be considered for the purpose of determining if the application of BACT is required for the emergency standby Equipment.” Considering the emissions that will occur as a result of routine maintenance and testing, a maximum of 34 hours per engine per year, the Project’s emissions would fall below the threshold for Minor Projects. As such, under Rule 206, the application is for a Minor Project and shall be processed ministerially. Since this will be a ministerial permit it will not be subject to CEQA review.

The APCD is also tasked with implementing the State Hot Spots Program. AB 2588, known as the Air Toxics “Hot Spots” Information and Assessment Act, was enacted to collect emission data, identify facilities having localized impacts, ascertain health risks, notify nearby residents of significant risks, and reduce those significant risks to acceptable levels. Under AB 2588, “the operator of every facility that has been included within the highest priority category shall prepare and submit to the district a health risk assessment pursuant to Section 44361.” (Health & Safety Code, § 44360.) The APCD determined that the permit application had a high priority classification and therefore requested that the applicant conduct and submit a Health Risk Assessment.

Following the Health Risk Assessment process, if the APCD determines that the facility would cause a significant health risk, the facility must provide notice to exposed persons, and develop Risk Reduction Audits and Plans. (Health and Safety Code, §§ 44362 & 44391.) However, if no significant health risk is found, no environmental mitigation may be imposed, and the review would be ministerial and exempt from CEQA. The APCD is currently reviewing the Health Risk Assessments submitted by the applicant, which conclude that the Project would not cause a significant health risk. If the APCD agrees with the Health Risk Assessments’ conclusions, no additional review or environmental mitigation is required.

### **Consistency with Sphere of Influence**

The project is located within the City of Imperial’s sphere of influence. As such, land within the Project area (including the Project site) includes the “U” zone designation to indicate the urban area.

“... With regard to urban areas around incorporated cities, it is the intent of the county of Imperial to adhere to the standards, rules, regulations and ordinances of said urban jurisdiction. To that end, the board of supervisors directs staff to work with their respective counterparts in the urban area and to use to the extent feasible

and possible the urban area regulations in implementing any proposed land use action.”

(Imperial County Code section 90501.08.) This section requires County staff to “work with” the City and use the City’s regulations “to the extent feasible and possible.” The County Code does not grant the City any authority or discretion over the project’s approval.

In reviewing the project, the County determined the project was consistent with the City’s General Plan. Under the City of Imperial General Plan, the project is zoned as Rail Served Industrial which provides for industrial and agricultural uses that require rail access. (City of Imperial Service Area Plan (May 2025), p. 28; City of Imperial General Plan, Land Use Element, p. 17.) Light Industrial uses and General Industrial uses are deemed compatible uses within the Rail Served Industrial zone. (City of Imperial General Plan, Land Use Element, p. 19.) Light Industrial uses include industrial office parks, research and development facilities, incubator industrial development, warehousing/ distribution centers, and General Industrial uses expand these industrial uses to allow fabrication, assembly, packing, processing, and storage. (*Ibid.*) The City of Imperial General Plan does not specify data centers as a use. Given that the Rail Served Industrial designation allows for the most intensive industrial uses within the City, and that data centers are permissible by-right in the County’s Code, County staff applied the City’s regulations “to the extent feasible and possible” to the Project. Nothing more was required.

### **Rezoning and Parking Variance Not Required**

The Project, as proposed, does not require the site to be rezoned. Nor does the Project require a Parking Variance.

Following the County’s initial review of the site plan for the Project, the applicant amended the plan to ensure all project components are consistent with their respective parcel zone. This is permitted as an exception to County Code. Generally, “[e]very lot or parcel of land or portion thereof within the unincorporated areas of the county of Imperial shall be classified in only one of the base zoning areas.” (County Code, § 90501.01.) However, “[p]arcels greater than forty (40) acres in net area may be divided by zoning district boundaries.” (*Ibid.*) The total parcel size after the lot merger will be 75.39 acres, and thus it is permitted to maintain the existing zoning on the merged parcel. Therefore, the Project does not require discretionary rezoning.

Additionally, a parking variance is not required. The purposes of parking variances are “to reduce street congestion, promote safety, and provide for the convenience of the residents of the County by requiring provisions for adequate and well-designed parking in conjunction with the land use.” (County Code, § 90402.00.) The County found that data centers do not fall under the categories listed under the Parking Variance Chapter. As such, the County determined the project falls under “Unlisted Use” in that Chapter. (County Code, § 90402.04.) This section states, “the Planning & Development Services Department shall determine the parking needs based on the list of uses, which most nearly resemble the proposed use. The Department may use national or state standards or guidelines for determining parking needs.” (*Ibid.*)

Though limited, the Planning Department found some guidance from the Urban Land Institute and an example ordinance from the City of Mesa, Arizona. The Urban Land Institute provides:

“the parking requirements for data centers are far less than would be required for another industrial or commercial use of a similar size. Overbuilding parking for a given data center site or campus can be unnecessarily costly but more importantly creates excess impervious surface and avoidable environmental consequences. Accordingly, we recommend that the parking requirements for data centers be established either by:

1. Applying the parking requirements for office that exist in the ordinance, but only to the portion of the data center building that is actually utilized for office space; or
2. Requesting a staffing plan from the data center developer and allowing such data to inform the minimum number of needed parking spaces.”

(*Local Guidelines for Data Center Development*, Urban Land Institute (2024) p. 22 available at [uli-data-center-whitepaper\\_hm\\_2024-11-12\\_final-final-round.pdf](#).) The City of Mesa’s ordinance instructs data center’s provide “1 space per 5,000 square feet for the first 200,000 square feet and 1 space per 10,000 square feet thereafter.” (City of Mesa Ordinance 5957, available at [25-0566 - Exhibit 1 - Data Center and PAD Ordinance](#).)

The application proposed 296 parking spaces as part of the project. Based on the Planning Department’s research, and pursuant to Section 90402.04 Unlisted Use, the Planning Department agreed that the applicant’s parking calculations were sufficient and did not propose a variance. It should also be noted that the parking variance ordinance does not afford the County discretionary authority beyond requiring parking spaces. This authority does not provide for meaningful environmental mitigation and thus CEQA review would not be required even if a parking variance were required.

## **Conclusion**

In summary, the County’s review and approval processes for each of the Project elements subject to the County’s jurisdiction are ministerial and limited to determining whether the Project meets objective criteria set forth in the applicable statutes and/or ordinances. Where the County does have limited discretion through these processes, the discretion does not allow for project changes to address environmental concerns that a CEQA study might reveal. Because the project is compliant with the established standards for each component, the relevant permits will be approved. As such, the whole project is ministerial and therefore statutorily exempt from CEQA review.