

**ATTACHMENT "G"**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF IMPERIAL, CALIFORNIA, APPROVAL FOR “CONDITIONAL USE PERMIT CUP #18-0040” FOR WISTER SOLAR ENERGY FACILITY PROJECT**

**WHEREAS**, ORNI 33, LLC has submitted an application for Conditional Use Permit #18-0040 for the construction, operation, maintenance and decommissioning of solar photovoltaic (PV) facilities); and

**WHEREAS**, an Environmental Impact Report and CEQA Findings have been prepared in accordance with the requirements of the California Environmental Quality Act, the State Guidelines, and the County’s “Rules and Regulations to Implement CEQA,” as Amended; and

**WHEREAS**, the Board of Supervisors of the County of Imperial has been delegated with the responsibility for adoptions and certification; and

**WHEREAS**, public notice of said application has been given, and the Board of Supervisors has heard, received and considered all oral and written protests, objections and evidence presented by interested parties at a public hearing held with respect to this item on January \_\_, 2021; and

**WHEREAS**, the Draft EIR was received by the State Clearinghouse on June 22, 2020 and circulated for a period of 50 days ending on August 18, 2020, (SCH# 2019110140).

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

**SECTION 1.** The Board of Supervisors has considered the proposed Conditional Use Permit #18-0040 prior to making a decision to approve the proposed project. The Board of Supervisors finds and determines that the Conditional Use Permit are adequate and prepared in accordance with the requirements of the Imperial County General Plan, Land Use Ordinance and the California Environmental Quality Act (CEQA) which analyses environmental effects, based upon the following findings and determination.

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

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

The General Plan goals and objectives serve as guidelines and policy statements. The County Board of Supervisors has the authority to interpret the meaning of its General Plan and determine whether the proposed project is consistent

1. The General Plan designates the subject site as "Recreational/Open Space." Sections 90519.00 of the County Land Use Ordinance identify the permitted and conditional uses within the S-2, zoning designations. Uses identified as conditionally permitted require a Conditional Use Permit (CUP), which is subject to the discretionary approval of the County Board of Supervisors (Board) per a recommendation by the County Planning Commission. The projects include several uses identified as conditionally permitted within the S-2 zones. These uses include electrical substations in an electrical transmission system (92/12-kV); facilities for the transmission of electrical energy (92-kV); solar energy plants; and solar energy electrical generators.
2. The Board of Supervisors also examined the relevant, applicable portions of the Imperial County General Plan's Land Use Element and the Renewable & Transmission Element and has determined that the Land Use Element's statement that "geothermal, hydroelectric, wind and solar facilities may be regulated differently than other types of power plants by implementing zoning" demonstrates that the proper regulating process for solar facilities is the County's Zoning Ordinance. Per the General Plan, Land Use Element, Objective 3.15 – Support the safe and orderly development of renewable energy in conformance with the goals and objective of the Renewal Energy and Transmission Element (page. 38). Further, the Land Use Compatibility Matrix in the ICGP provides that industrial uses are permissible on lands zones S-2 with a CUP, General Plan, Land Use Element., Table 4.
3. The Renewable & Transmission Element authorizes renewable energy projects if the renewable energy project: 1) is not located in a sensitive area and 2) Would not result in any significant environmental impacts. The EIR shows all significant impacts being mitigated. Additionally, pursuant to Land Use Ordinance, Section 90519.02, solar is permitted with approval of a Conditional Use Permit for "Solar Power Plants."

4. The Renewal Energy and Transmission Element and the Land Use Element contain no express prohibition of non-agricultural uses on land designated within the Agricultural category. Rather, the Agricultural Element specifically allows non-agricultural development on land within the Agricultural Category. According to the Land Use Element, agriculture is the principal and dominant use, but the Land Use Element expressly allows non-agricultural uses on agricultural land and places an appropriate burden on those proposing a non-agricultural use to demonstrate that (1) the use “does not conflict with agricultural operations and will not result in the premature elimination of such agricultural operations” and (2) it meets the requirement that “no use should be permitted which would have a significant adverse effect on agricultural production.” (General Plan Land Use Elem. IV.C.5.)
5. The Board of Supervisors finds that the evidence in the record demonstrates that the Project does not conflict with any existing agricultural operations and will not result in the premature elimination of agricultural operations. While the Project temporarily will cause the project site to be unavailable for agricultural production during construction, operation, maintenance, and decommissioning/reclamation of the Project, this temporary loss is mitigated to less than significant by the mitigation measures identified in the EIR, which ensure that opportunities for active agriculture production in the County will continue to be available, supported, and promoted. The affected agricultural land will remain within the Agricultural land use category. Further, the Project applicant will be required to submit to Imperial County a site-specific decommissioning and reclamation plan capable of restoring the site back to current agricultural conditions, which will further ensure availability of the land for future agricultural production.
6. The Board of Supervisors further finds that the Project does not have a significant adverse effect on agricultural production. The CUP is for a for the proposed Wister Solar Energy Facility is for a temporary period. The County policy requires preparation and implementation of an open space reclamation plan that will return the site to its original state at the end of the proposed operational life, which is assured through a Project mitigation measure. Additionally, at the time the County adopted the Public Benefit Program via Resolution 2012-005, which is implemented through the Project’s Development Agreement, the County Board of Supervisors noted that the solar projects subject to the Public Benefit Program would not have a significant impact on agricultural production. Section 4.9 of the EIR confirms that only 4.5% of the farmland in Imperial County (24,244 acres out of 539,273) would be converted

assuming the proposed Project and all other cumulative projects were fully built-out. Accordingly, the County finds that there is no significant impact on agriculture production.

7. Pursuant to SB 2X, California utilities have been mandated to obtain 33% of their energy from renewable sources (wind, solar, geothermal, biofuels, etc.) by 2020. The County General Plan actively promotes both alternative energy and opportunities for economic growth. For example, Goal 1 of the Geothermal/Alternative Energy and Transmission Element (“Alternative Energy Element”) provides that the County “supports and encourages the full, orderly, and efficient development of geothermal/alternative energy resources while at the same time preserving and enhancing where possible agricultural, biological, human, and recreational resources
8. The proposed use is also consistent with the County’s goal of becoming a major source of renewable energy for California, and fulfill its mission to help California meet its statutory and regulatory goal of increasing renewable power generation, including greenhouse gas reduction goals of Assembly Bill (AB) 832 (California Global Warming Solutions Act of 2006). Imperial County is a major source of renewable energy for the State of California. One of the purposes of the Imperial Valley Renewable Energy Development Program is to “maximize development of all renewable energy resources.” An objective of the Project is “to assist the State of California in achieving and exceeding the Renewable Portfolio Standard”.
9. As summarized in the Goals and Objectives of the Renewable Energy and Transmission Element of the Imperial County General Plan (Goal 1), “...The County of Imperial supports the safe and orderly development of renewable energy while providing for the protection of environmental resources.  
  
Therefore, the proposed project will be compatible with the objectives, policies, general land uses and programs specified in the applicable plan.” *Id.* (internal quotations and citations omitted).
10. The proposed use may provide an economic benefit to the county, if an agreement entered. Solar energy projects provide economic growth to the region and economic benefit to the County and Goal 2 of the Land Use Element states that the County should “[d]iversify employment and economic opportunities in the County while preserving agricultural activity”. Goal 3, Objective 3.2 of the Land Use Element recognizes the need to “[p]reserve agricultural and natural resources while promoting diverse economic growth

through sound land use planning.” The project is located outside of agricultural land and would not impact agricultural; however, it would create jobs and other economic opportunities in the County at a time of high County unemployment.

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

The purpose of the project is for the construction of a PV solar facility. Pursuant to Title 9, Division 5, Chapter 19, “Solar energy electrical generator,” “Electrical power generating plant,” “Major facilities relating to the generation and transmission of electrical energy,” and “Resource extraction and energy development,” are uses that are permitted in the S-2 zones subject to approval of a CUP from the County. The Project site is zoned S-2. The purpose of these zones is to designate areas that are suitable for open space uses, as well as areas that support other compatible uses consistent with the identified permitting requirements. Solar energy facilities are permitted with a conditional use permit in S-2 zones (Imperial County Code § 90519.02). Therefore, the proposed use is consistent with the purpose of the zone or sub-zone within which the use will be located.

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

The proposed solar facility is listed as a use subject to a Conditional Use Permit in Land Use Ordinance, Sections 90519.02.

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

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

of Imperial and the State of California. Therefore, the proposed project will meet the minimum requirements of the Land Use Ordinance, Section 90203.00.

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

The PV solar energy facilities are located in a largely undeveloped and unincorporated portion of the northwest Imperial County. Land surrounding the solar complex site consists of previously farmed lands and undeveloped open desert with a checkerboard of federal, state and private land. Noise associated with solar panel operation would also meet the County's noise ordinance requirements at the Project's property lines. The Environmental Impact Report prepared for the Project analyzed the Project's potential effects on the health, safety, and welfare of the public and property and found that, with mitigation, the Project has less than significant effects in all resources areas.

Finally, the Project applicant has agreed to conditions of approval that support and promote the protection of the health, safety, and welfare of the County's citizens and property, and ensures that the County will not be negatively impacted environmentally or fiscally.

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

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

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

The PV solar energy facility is a permitted use subject to approval of a Conditional Use Permit under Land Use Ordinance, Section 92102.00 *et. seq.* The proposed use is and will not granting a special privilege because the County has granted similar CUPs to properties in the area for PV solar energy facility.

**SECTION 3.** Approval of the Project should be conditioned upon the terms and conditions set forth in the Agreement for Conditional Use Permit No. 18-0040, attached hereto and incorporated herein by this reference.

**NOW, THEREFORE,** based on the above findings, the Board of Supervisors of the County of Imperial **DOES HEREBY APPROVE** Conditional Use Permit #18-0040, subject to the attached Conditions of Approval.

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Luis A. Plancarte, Chair  
Imperial County Board of Supervisors

I hereby certify that the preceding resolution was taken by the Board of Supervisors at a meeting conducted on January \_\_, 2021 by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

**ATTEST:**

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Blanca Acosta, Clerk of the Board of Supervisors





1 Recording Requested By and  
When Recorded Return To:

2 \_\_\_\_\_  
3 Imperial County  
4 Planning & Development Services  
801 Main Street  
El Centro, California 92243  
5 \_\_\_\_\_

6  
7 **AGREEMENT FOR**  
8 **CONDITIONAL USE PERMIT #18-0040**  
9 **Wister Solar Energy Facility**  
10 **APN 003-240-001-000**

11 **(December 17, 2020 by Planning Commission)**

12 **(\_\_\_\_\_ by Board of Supervisors)**

13 This Agreement is made and entered into on this \_\_\_ day of \_\_\_\_\_, 2021, by and  
14 between ORNI 33, LLC, hereinafter referred to as the Permittee (Permittee), and the  
15 COUNTY OF IMPERIAL, a political subdivision of the State of California, (hereinafter  
16 referred to as "COUNTY") related to the Wister Solar Energy Facility.

17 **RECITALS**

18 **WHEREAS**, Permittee is the lessee or successor-in-interest of certain land in  
19 Imperial County with the proposed photovoltaic solar energy facility, electrical switch  
20 station, substation, and internal solar development transmission lines, on approximately  
21 100 acres within a 640 acre parcel in Imperial County. The proposed facility is located  
22 approximately 3 miles northeast of the Townsite of Niland; Assessor Parcel Number 003-  
23 240-001-000, Section 27, Township 10 South, Range 14 East, San Bernardino Base &  
24 Meridian (SBBM).

25 **WHEREAS**, Permittee has applied to the County of Imperial for a Conditional Use  
26 Permit #18-0040 for constructing and operating a new 20 megawatt (MW) solar  
27 photovoltaic (PV) energy facility using high-efficiency PV technology, supporting  
28 structures, on-site substation, access driveways, and transmission structures, and  
connection to the existing 92kV line (the "Project").

The Permittee for the Wister Solar Energy Facility Project shall fully comply with all of the  
terms and conditions of the Project as specified hereinafter within this Conditional Use  
Permit.

1 **GENERAL CONDITIONS:**

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

8 **G-1 GENERAL LAW:**

9 The Permittee shall comply with all local, state and/or federal laws, rules, regulations,  
10 ordinances, and/or standards (LORS) as they may pertain to the Project whether specified  
11 herein or not.

12 **G-2 PERMITS/LICENSES:**

13 The Permittee shall obtain any and all local, state and/or federal permits, licenses, and/or  
14 other approvals for the construction and/or operation of the Project. This shall include, but  
15 not be limited to, local requirements by the Imperial County EHS/Health Department,  
16 Planning and Development Services Department, Imperial County Air Pollution Control  
17 District (ICAPCD), Imperial Irrigation District (IID), Imperial County Public Works  
18 Department, Imperial County Sheriff/Coroner's office, Imperial County Fire  
19 Protection/Office of Emergency Services, among others. Permittee shall likewise comply  
20 with all such permit requirements. Additionally, Permittee shall submit a copy of such  
21 additional permits and/or licenses to the Planning and Development Services Department  
22 within thirty (30) days of receipt, including amendments or alternatives thereto, when  
23 requested.

24 **G-3 RECORDATION:**

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

**G-4 CONDITION PRIORITY:**

The Project shall be constructed and operated as described in the Conditional Use Permit,  
CUP application, Mitigation Monitoring & Reporting Program, and the Final Environmental  
Impact Report, (FEIR).

**G-5 INDEMNIFICATION:**

As a condition of this permit, Permittee agrees to defend, indemnify, hold harmless, and  
release the County, its agents, officers, attorneys, and employees from any claim, action,

1 or proceeding brought against any of them, the purpose of which is to attack, set aside,  
2 void, or annul the entitlements permit, approvals or adoption of the environmental  
3 document which accompanies it. This indemnification obligation shall include, but not be  
4 limited to, damages, costs, expenses, attorney's fees, or expert witness fees that may be  
5 asserted by any person or entity, including the Permittee, arising out of or in connection  
6 with the approval of this permit, whether there is concurrent, passive or active negligence  
7 on the part of the County, its agents, officers, attorneys, or employees. This  
8 indemnification shall include Permittee's actions involved in drilling, grading, construction,  
9 operation or abandonment of the permitted activities. Permittee further agrees to comply  
10 with the terms of the indemnification agreement incorporated by this reference and  
11 attached hereto as Exhibit A. Failure to provide payment of any fees shall cause Permittee  
12 to be in non-compliance with this permit. Upon notification of non-compliance, County  
13 may, at its sole discretion, cease processing, defending any lawsuit or paying for costs  
14 associated with this project.

#### 10 **G-6 INSURANCE:**

11 The Permittee and/or Permittee's prime contractor assigned site control during  
12 construction, shall secure and maintain liability in tort and property damage, insurance at a  
13 minimum of **\$1,000,000** or proof of financial responsibility to protect persons or property  
14 from injury or damage caused in any way by construction and/or operation of permitted  
15 facilities. The Permittee shall require that proper Workers' Compensation insurance cover  
16 all laborers working on such facilities as required by the State of California. The Permittee  
17 and/or Permittee's prime contractor assigned site control during construction, shall also  
18 secure liability insurance and such other insurance as may be required by the State and/or  
19 Federal Law. Evidence of such insurance shall be provided as applicable to the County  
20 prior to commencement of any activities authorized by this permit, e.g. a Certificate of  
21 Insurance is to be provided to the Planning and Development Services Department by the  
22 insurance carrier and said insurance and certificate shall be kept current for the life of the  
23 permitted Project. Certificate(s) of Insurance shall be sent directly to the Planning and  
24 Development Services Department by the insurance carrier and shall name the  
25 Department as a recipient of both renewal and cancellation notices.

#### 20 **G-7 INSPECTION AND RIGHT OF ENTRY:**

21 The County reserves the right to enter the premises to make appropriate inspection(s) and  
22 to determine if the condition(s) of this permit are complied with. The owner or operator  
23 shall allow an authorized County representative access into the site upon the presentation  
24 of credentials and other documents as may be required by law to:

- 24 (a) Enter at reasonable times upon the owner's or operator's premises where a  
25 permitted facility or activity is located or conducted, or where records must be kept  
26 under the conditions of the permit.
- 26 (b) Have access to and copy, at reasonable times, any records that must be kept under  
27 the conditions of the permit.

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2 (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit.

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4 (d) Sample or monitor, at reasonable times, for the purpose of assuring permit compliance or, otherwise authorized by law, any substances or parameters at any location.  
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6 **G-8 SEVERABILITY:**

7 Should any condition(s) of this permit be determined by a Court or other agency with proper jurisdiction to be invalid for any reason, such determination shall not invalidate the remaining provision(s) of this permit.  
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9 **G-9 PROVISION TO RUN WITH THE LAND/PROJECT:**

10 The provisions of this Permit are to run with the land/project and shall bind the current and future owner(s), successor(s)-in-interest, assignee(s) and/or transferee(s) of said Project pursuant to the recordation required by Condition G-3. Permittee shall not without prior notification to the Planning and Development Services Department assign, sell or transfer, or grant control of Project or any right or privilege therein granted by this permit. The Permittee shall provide a minimum of thirty (30) days written notice prior to any proposed transfer becoming effective. The permitted use identified herein is limited for use upon the permitted properties described herein and may not be transferred to any another other parcel(s) without prior approval.  
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16 **G-10 TIME LIMIT:**

17 Unless otherwise specified within the specific conditions, this permit shall be limited to a maximum of twenty-five (25) years from the approval date of the CUP. The Conditional Use Permit may be extended for a five (5) year period by the Imperial County Planning & Development Services Director. If an extension is necessary, the Permittee shall file a written extension request with the Planning Director at least sixty (60) days prior to the expiration date of the permit. Such an extension request shall include the appropriate extension fee. If the original approval was granted by the Planning Commission and/or the Board of Supervisors, such an extension shall only be considered by the approving body, after a noticed public hearing. Nothing stated or implied within this permit shall constitute a guarantee that an extension will be granted. An extension may not be granted if the Project is in violation of any one or all of the conditions or if there is a history of non-compliance with the permit conditions. I.C.P.D.S Div. 2, Chapter 3, Section 90203.13.  
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24 **G-11 COST:**

25 The Permittee shall pay any and all amounts determined by the County of Imperial to defray any and all cost(s) for the review of reports, field investigations, monitoring, and other activities directly related to the enforcement/monitoring for compliance of this  
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1 Conditional Use Permit, County Ordinance or any other applicable law. All County  
2 Departments, directly involved in the monitoring/enforcement of this permit may bill  
3 Permittee under this provision, however said billing shall only be through and with the  
4 approval of the Planning and Development Services Department. All County staff time will  
5 be billed on a time and materials basis. Failure by Permittee to provide any payment  
6 required of Permittee to the County in the CUP shall cause Permittee to be in non-  
compliance of the CUP. Upon Permittee being in such noncompliance, County may, at its  
sole discretion, cease processing, defending any lawsuit or paying for costs associated  
with the Project.

7 **G-12 REPORTS/INFORMATION:**

8 If requested by the Planning Director, Permittee shall provide any such  
9 documentation/report as necessary to ascertain compliance with the Conditional Use  
10 Permit. The format, content and supporting documentation shall be as required by the  
Planning Director.

11 **G-13 DEFINITIONS:**

12 In the event of a dispute the meaning(s) or the intent of any word(s), phrase(s) and/or  
13 conditions or sections herein shall be determined by the Planning Commission of the  
14 County of Imperial. Their determination shall be final unless an appeal is made to the  
Board of Supervisors within the required time.

15 **G-14 MINOR AMENDMENTS:**

16 The Planning Director may approve minor changes or modification(s) to the design,  
17 construction, and/or operation of the Project provided said changes are necessary for the  
18 Project to meet other laws, regulations, codes, or conditions of the CUP, EIR and MMRP,  
and provided such changes will not result in any additional environmental impacts.

19 **G-15 SPECIFICITY:**

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

24 **G-16 NON-COMPLIANCE (ENFORCEMENT & TERMINATION):**

25 Should the Permittee violate any condition herein, the County shall give written notice of  
26 such violation and actions required of Permittee to correct such violation. If Permittee  
27 does not act to correct the identified violation within sixty (60) days after written notice,  
County may revoke the CUP. If Permittee pursues correction of such violation with

1 reasonable diligence, the County may extend the cure period. Upon such revocation,  
2 County may, at its sole discretion, cease processing, defending any lawsuit or paying for  
3 costs associated with the Project.

4 **G-17 GENERAL WELFARE:**

5 All construction and operations of the solar energy facility shall be conducted with  
6 consistency with all laws, conditions, adopted County policies, plans, mitigation measures  
7 and the permit application so that the Project will be in harmony with the area and not  
8 conflict with the public health, safety, comfort, convenience, and general welfare of those  
9 residing in the area.

10 **G-18 PERMITS OF OTHER AGENCIES INCORPORATED:**

11 Permits granted by other governmental agencies in connection with the Project are  
12 incorporated herein by reference. The County reserves the right to apply conditions of  
13 those permits, as the County deems appropriate and subject to its having jurisdiction;  
14 provided, however, that enforcement of a permit granted by another governmental agency  
15 shall require written concurrence by the respective agency. Permittee shall provide to the  
16 County, upon request, copies and amendments of all such permits.

17 **G-19 HEALTH HAZARD:**

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

25 **G-20 APPROVALS AND CONDITIONS SUBSEQUENT TO GRANTING PERMIT:**

26 Permittee's acceptance of this permit shall be deemed to constitute agreement with the  
27 terms and conditions contained herein. Where a requirement is imposed in this permit that  
28 Permittee conduct a monitoring program, and where the County has reserved the right to  
impose or modify conditions with which the Permittee must comply based on data  
obtained there from, or where the Permittee is required to obtain additional conditional use  
permits for County approval for subsequent activities, and disagreement arises, the  
Permittee, operator and/or agent, the Planning and Development Services Director or  
other affected party, as determined by the Planning and Development Services Director,  
may request that a hearing before the Imperial County Planning Commission. Upon  
receipt of a request, the Planning Commission shall conduct a hearing and make a written  
determination. The Planning Commission may request support and advice from a  
technical advisory committee. Failure of the Planning Commission to act shall constitute  
endorsement of staff's determination with respect to implementation.

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2 **SITE SPECIFIC CONDITIONS:**

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4 **S-1 AUTHORIZED SCOPE OF ACTIVITIES:**

- 5 1. ORNI 33, LLC shall be the developer for this Project and shall be responsible as for  
6 all improvements, septic, sewer, approved potable water system(s), pipelines,  
7 roads and other improvements discussed in the Conditional Use Permit Application  
8 and Conditions, FEIR, and MMRP. Water shall be provide from either the existing  
9 on-site well located at the north-western portion of the project site or from a local  
10 water source utilizing a 10,000-galon aboveground water storage facility as required  
11 by ICFD. If ORNI 33, LLC sells all or part of this Project, an approved agreement  
12 shall be in place for new Project owner to build and maintain as agreed to by the  
13 conditions set forth in this CUP. The Planning and Development Services Director  
14 shall approve of such agreement between ORNI 33, LLC and a new developer for  
15 this Project. The County Assessor's Office shall be notified of any ownership  
16 change.
- 17 2. ORNI 33, LLC shall develop this CUP property as a separate solar energy facility.  
18 Any development with a combination of parcels will require the owner(s) to have a  
19 recorded deed restriction to "hold the parcel as one parcel" that runs with the land.  
20 This deed restriction shall be for a minimum of 25 years and shall only be released  
21 upon the expiration of the 25 years, the expiration or termination of the Conditional  
22 Use Permit, or upon approval of the Planning & Development Director that the  
23 restriction is no longer needed based on a change in the development or regulation.
- 24 3. The Permittee may construct and operate the following facilities in compliance with  
25 the Conditional Use Permit, the County's General Plan's Land Use Element, Land  
26 Use Ordinance and all other applicable local, state, and federal laws, ordinances,  
27 regulations and standards (LORS), to include any other permits which are  
28 incorporated herein by reference:
- a. Construction, operation, maintenance, replacement and removal of a solar energy facility as described in Permittee's CUP Application. The solar energy facility would include photovoltaic modules, mounting structures, electrical wiring, inverters, transformers and AC electric collector system, project electric substation and ancillary facilities. Ancillary facilities would include safety and security equipment, retention basins, perimeter fencing, access gates, lighting systems, access roads, and could include temporary construction trailers, equipment enclosures, water treatment system, septic system, parking, and fire protection including a minimum 10,000 gallon fire water tank, and monitoring and control systems.
  - b. The Project proposes to use either thin film or crystalline solar photovoltaic (PV) technology modules mounted on fixed or horizontal single-axis tracker (HSAT)



1 systems; concentrating photovoltaic (CPV) systems mounted on a dual-axis  
2 tracking system; or a mix of the technologies.

3 c. **PV module** arrays would be mounted on racks supported by driven piles. The  
4 depth of the piles would be dependent on the geotechnical recommendations for  
5 the Project. If HSAT technology is used, the PV modules would rotate around the  
6 north-south HSAT axis so that the PV modules would face the sun as it moves  
7 across the sky throughout the day. The PV modules would reach their maximum  
8 height (up to nine feet above the ground, depending on the final design) when the  
9 HSAT is rotated to point the modules at the rising or setting sun at both sunrise and  
10 sunset. When the HSAT system is rotated so that the PV modules are horizontal (at  
11 noon, or when stowed during high winds), the nominal height would be  
approximately six feet above the ground, depending on the final design. The  
individual PV systems would be configured in large arrays by placing them in  
columns spaced approximately ten feet apart to maximize operational performance  
and to allow access for panel cleaning and maintenance. These arrays would be  
separated from each other and the perimeter security fence by nominal 20-foot  
wide roads, consistent with emergency access requirements.

12 d. **Substations-** a substation, would developed and located in close coordination with  
13 IID, to transform the collected 92-Kv power generation to IID transmission system  
14 voltages. The substation would include a main power transformer, facility protection  
15 equipment, and a control enclosure. The substation structure's maximum height  
16 would be equal to or less than existing IID facility structures. The substation will  
17 convert the collection-level electricity (92-KV) to the IID existing 92-kV line located at  
the southwest corner of the property. All interconnection equipment would be  
installed aboveground and within the footprint of the project substation. The overall  
footprint of the project substation is anticipated to be approximately 300 by 175 feet  
and poles up to 70 feet in height.

18 e. **Gen-Tie Line-** The proposed project may require one transmission structures to  
19 connect the project substation to IID's existing 92-Kv line located at the southwest  
20 corner of the property. Final structure heights would be determined by IID, but shall  
not exceed 70 feet.

21 **f. Telecommunications**

22 The project requires telecommunications connections for remote operations and  
23 utility telemetry. The region in which the project is proposed is known to be without  
24 significant fiber infrastructure or high-speed copper based telecommunication  
25 options. As is typical for facilities of this nature in the project region, microwave  
26 point to point service would likely be required. Satellite based solutions may also be  
27 considered, if such solutions can meet the project requirements. Microwave  
28 solutions do require the installation of a radio antenna pole or tower, typical ranging  
in height from 20 to 100 feet. Any such structure would be located immediately  
adjacent to the substation control enclosure.

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g. **Site Access-** The nearest paved road, Wilkins Road, is located at the southwest corner of project site. The primary means of access (all public) is from Wilkins Road Road. For all access to the site, active dust control mitigation measures would be utilized for all un-paved portions during construction of the facility. To accommodate emergency access, PV panels would be spaced to maintain proper clearance. A 20-foot-wide access road would be constructed along the perimeter fence and solar panels to facilitate vehicle access and maneuverability for emergency unit vehicles. The internal access road would be graded and compacted (native soils) as required for construction, operations, maintenance, and emergency vehicle access.

h. **Panel Washing** - Water required for operations and maintenance of the project would be provided from an existing well site located on project site or from a local water source. One water storage tank would be installed as required by the ICFD. Water would be used for periodic cleaning of the solar PV panels. It is anticipated that the solar PV panels would be washed up to four times per year to ensure optimum solar absorption by removing dust particles and other buildup. Total water demand during operation, including panel washing and other domestic water needs, is estimated to be approximately 1.37 acre-feet per year (AFY). One or two small above ground portable sanitary waste facilities may be installed to retain wastewater for employee use. If installed, these facilities would remain onsite for the duration of the project. These facilities would be installed in accordance with state requirements and emptied as needed by a contracted wastewater service vehicle. No wastewater would be generated during panel washing as water would continue to percolate through the ground, as a majority of the surfaces within the project site would remain pervious. Except as specifically authorized in the permit, supplemental activities which require additional major equipment or facilities will require separate permits. The County, in issuing this Permit, in no way assures, or otherwise vests any right, with respect to the issuance of a permit or permits for such supplemental activities.

**S-2 AESTHETICS:**

1. The Permittee shall design and maintain all buildings and equipment enclosures to have exterior surfaces with neutral, non-reflective colors. The construction and maintenance of County-approved landscaping along the access into the Operation/Maintenance Facility shall be in compliance with the Land Use Ordinance, Division 3, Chapters 1 and 2, Sections 90302.00 through 90302.19 and as indicated in the FEIR and Mitigation Monitoring and Reporting Program.
2. The Permittee shall design and install lighting at construction storage yards and staging areas, such that light bulbs and reflectors are not visible from public viewing areas; lighting does not create reflected glare; and illumination of the Project facilities, vicinity, and nighttime sky is minimized.

- 1 3. Lighting shall be designed so exterior light fixtures are hooded, with lights directed  
2 downward or toward the area to be illuminated and so that backscatter to the  
3 nighttime sky is minimized. The design of the lighting shall be such that the  
4 luminescence or light source is shielded to minimize light trespass outside the  
5 Project boundary.
- 6 4. All lighting shall be of minimum necessary brightness consistent with worker safety  
7 and OSHA-Requirements.
- 8 5. High illumination areas not occupied on a continuous basis shall have switches or  
9 motion detectors to light the area only when occupied.

### 10 **S-3 AGRICULTURE COMMISSIONER:**

- 11 1. The Project Developer shall:
  - 12 a) Develop and implement an approved Pest Management Plan for the duration of  
13 the project that will reduce negative impacts to surrounding farmland. Plan shall  
14 be reviewed and approved by the Imperial County Agricultural Commissioner's  
15 Office.
  - 16 b) Monitor for all pests including insects, vertebrates, weeds, and pathogens.  
17 Promptly control or eradicate pests when found, or when notified by the Agricultural  
18 Commissioner's office that a pest problem is present on the project site. The  
19 assistance of a licensed pest control advisor (PCA) is recommended.

### 20 **S-4 AIR QUALITY:**

- 21 1. The Permittee shall comply at all times with the Imperial County Air Pollution  
22 Control District's (ICAPCD) Regulation VIII, Fugitive Dust Control. The primary  
23 pollutant controlled by this regulation is PM10, "fugitive dust." All identified PM10  
24 sources associated with the construction and operation of the facility, such as open  
25 areas, roads, stock piles, material transport and grading activities, shall be  
26 controlled such that surface areas are stabilized and visible dust emissions are  
27 below 20%. Any control measure not listed within the appropriate sections of  
28 Regulation VIII, such as but not limited to watering, graveling, chemical stabilizers  
and wind barriers shall not be utilized without prior approval from the ICAPCD.
2. The Permittee shall submit to the ICAPCD for approval a dust control plan  
identifying all sources of PM10 emissions and associated mitigation measures  
during the construction and operational phases of the project. Permittee shall  
submit a "Construction Notification Form" to the ICAPCD 10 days prior to the  
commencement of any earthmoving activity.
3. The Permittee shall comply with all applicable standard mitigation measures for  
construction combustion equipment for the reduction of excess NOx emissions as

1 identified in the air quality analysis and as contained in the Imperial County CEQA  
2 Air Quality Handbook and associated regulations.

- 3 • Utilize all Tier 3 or Tier 4 construction equipment.
- 4 • Prohibit idling of equipment not in use; for equipment in use reduce idling  
5 time to a maximum of 5 minutes.
- 6 • Where feasible replace fossil fuel burning equipment with electrically driven  
7 equivalents provided they are not powered via a portable generator
- 8 • Register all portable engines 50 horse power or greater with the ICAPCD

9 4. Permittee shall also apply enhanced measures to assure reduced levels of NOx are  
10 maintained during the construction phase of the project.

- 11 • Submit to the Air District prior to any earthmoving activity a complete list of  
12 all construction equipment to be utilized during the construction phase  
13 identifying Make, Model, Year, Horsepower and estimated hours of usage.
- 14 • In the event, NOx emissions are calculated to exceed ICAPCD thresholds for  
15 construction the Permittee shall provide for "offsite" mitigation or comply  
16 with Policy number 5. Policy number 5 allows a project to pay in-lieu impact  
17 fees utilizing the most current Carl Moyer Cost Effective methodology to  
18 reduce excess NOx emissions.

## 19 **Mitigations for Air Quality**

### 20 **AQ-1 Construction Equipment**

21 Construction equipment shall be equipped with an engine designation of EPA Tier 2  
22 or better (Tier 2+). A list of the construction equipment, including all off-road  
23 equipment utilized at each of the projects by make, model, year, horsepower and  
24 expected/actual hours of use, and the associated EPA Tier shall be submitted to  
25 the County Planning and Development Services Department and ICAPCD prior to  
26 the issuance of a grading permit. ICAPCD shall utilize this list to calculate air  
27 emissions to verify that equipment use does not exceed significance thresholds.  
28 The Planning and Development Services Department and ICAPCD shall verify  
implementation of this measure.

### 29 **AQ-2 Fugitive Dust Control**

30 Pursuant to ICAPCD, all construction sites, regardless of size, must comply with the  
31 requirements contained within Regulation VIII – Fugitive Dust Control Measures.  
32 Whereas these Regulation VIII measures are mandatory and are not considered  
33 project environmental mitigation measures, the ICAPCD CEQA Handbook's  
34 required additional standard and enhanced mitigation measures listed below shall  
35 be implemented prior to and during construction. The County Department of Public  
36 Works will verify implementation and compliance with these measures as part of  
37 the grading permit review/approval process.

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### **ICAPCD Standard Measures for Fugitive Dust (PM10) Control**

- All disturbed areas, including bulk material storage, which is not being actively utilized, shall be effectively stabilized and visible emissions shall be limited to no greater than 20 percent opacity for dust emissions by using water, chemical stabilizers, dust suppressants, tarps, or other suitable material, such as vegetative ground cover.
- All on-site and offsite unpaved roads will be effectively stabilized and visible emissions shall be limited to no greater than 20 percent opacity for dust emissions by paving, chemical stabilizers, dust suppressants, and/or watering.
- All unpaved traffic areas 1 acre or more with 75 or more average vehicle trips per day will be effectively stabilized and visible emissions shall be limited to no greater than 20 percent opacity for dust emissions by paving, chemical stabilizers, dust suppressants, and/or watering.
- The transport of bulk materials shall be completely covered unless 6 inches of freeboard space from the top of the container is maintained with no spillage and loss of bulk material. In addition, the cargo compartment of all haul trucks is to be cleaned and/or washed at delivery site after removal of bulk material.
- All track-out or carry-out will be cleaned at the end of each workday or immediately when mud or dirt extends a cumulative distance of 50 linear feet or more onto a paved road within an urban area.
- Movement of bulk material handling or transfer shall be stabilized prior to handling or at points of transfer with application of sufficient water, chemical stabilizers, or by sheltering or enclosing the operation and transfer line.
- The construction of any new unpaved road is prohibited within any area with a population of 500 or more unless the road meets the definition of a temporary unpaved road. Any temporary unpaved road shall be effectively stabilized and visible emissions shall be limited to no greater than 20 percent opacity for dust emission by paving, chemical stabilizers, dust suppressants, and/or watering.

### **ICAPCD “Discretionary” Measures for Fugitive Dust (PM10) Control**

- Water exposed soil with adequate frequency for continued moist soil.
- Replace ground cover in disturbed areas as quickly as possible.
- Automatic sprinkler system installed on all soil piles.
- Vehicle speed for all construction vehicles shall not exceed 15 miles per hour on any unpaved surface at the construction site.
- Develop a trip reduction plan to achieve a 1.5 average vehicle ridership for construction employees.
- Implement a shuttle service to and from retail services and food establishments during lunch hours.

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**Standard Mitigation Measures for Construction Combustion Equipment**

- Use of alternative fueled or catalyst equipped diesel construction equipment, including all off-road and portable diesel powered equipment.
- Minimize idling time either by shutting equipment off when not in use or reducing the time of idling to 5 minutes as a maximum.
- Limit, to the extent feasible, the hours of operation of heavy-duty equipment and/or the amount of equipment in use.
- Replace fossil fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set).

**Enhanced Mitigation Measures for Construction Equipment**

- To help provide a greater degree of reduction of PM emissions from construction combustion equipment, ICAPCD recommends the following enhanced measures.
- Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak hour of vehicular traffic on adjacent roadways.
- Implement activity management (e.g., rescheduling activities to reduce short term impacts).

**AQ-3 Dust Suppression.**

The project applicant shall employ a method of dust suppression (such as water or chemical stabilization) approved by ICAPCD. The project applicant shall apply chemical stabilization as directed by the product manufacturer to control dust between the panels as approved by ICAPCD, and other non-used areas (exceptions will be the paved entrance and parking area, and Fire Department access/emergency entry/exit points as approved by Fire/Office of Emergency Services [OES] Department).

**AQ-4 Dust Suppression Management Plan.**

Prior to any earthmoving activity, the applicant shall submit a construction dust control plan and obtain ICAPCD and Imperial County Planning and Development Services Department (ICPDS) approval.

**AQ-5 Operational Dust Control Plan.**

Prior to issuance of a Certificate of Occupancy, the applicant shall submit an operations dust control plan and obtain ICAPCD and ICPDS approval. ICAPCD Rule 301 Operational Fees apply to any project applying for a building permit. At the time that building permits are submitted for the proposed project, ICAPCD

1 shall review the project to determine if Rule 310 fees are applicable to the  
2 project.

3 **S-5 GEOLOGY/SOILS AND MINERAL RESOURCES**

- 4 1. Prior to approval of final engineering and grading plans for the Wister Solar  
5 Energy Facility Project site, the Permittee shall verify that all  
6 recommendations contained in the final Geotechnical Evaluation and  
7 Corrosion Analysis, or subsequent additional studies, have been  
8 incorporated into final engineering and grading plans to the extent  
9 applicable. The County's soil engineer and engineering geologist shall  
10 review engineering and grading plans prior to finalization, to verify plan  
11 compliance with the recommendations of the report. All development on the  
12 Project site shall be in accordance with Title 24, California Code of  
13 Regulations.
- 14 2. Structure placement in areas of high shrink/swell potential shall be avoided  
15 where possible; and if not avoided, structures shall be designed to resist the  
16 forces of the shrink/swell or such soils removed and replaced as determined  
17 by final geotechnical investigations and design.
- 18 3. Structures shall be placed in geologically stable areas, avoiding fault lines,  
19 brittle surface rock and bedrock, etc.
- 20 4. Project construction activities shall be designed and implemented to avoid or  
21 minimize new disturbance, erosion on manufactured slopes, and off-site  
22 degradation from accelerated sedimentation. Maintenance of cut and fill  
23 slopes created by Project construction activities shall consist primarily of  
24 erosion repair. Where re-vegetation is necessary to improve the success of  
25 erosion control, planting or seeding with native seed mix shall be done on  
26 slopes.
- 27 5. Prior to approval of final building plans, structures within the Project area  
28 shall be designed and constructed to resist the effects of seismic ground  
motions as provided in Section 1613 of the 2010 California Building Code.
6. The Project shall be engineered using the 2010 California Building Code,  
Section 1613 Design Coefficients for the proposed structures.
7. Prior to issue of building permits, the design of foundations and  
slabs-on-ground shall be performed in accordance with the procedures  
outlined in Sections 1808.6.1 and 1808.6.2 of the 2010 CBC and the latest  
edition of the Wire Reinforcement Institute (WRI) publication "Design of  
Slab-on-Grade Foundations." An effective plasticity index of 12 shall be used  
by the project structural engineer to design slabs-on-grade within an interior  
grade beam system in accordance with the WRI publication.

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8. Prior to the issue of Building permits: The type of concrete to be used in construction of the Project shall follow the recommendation of a structural engineer and the contractor responsible for concrete placement used in footings and interior slabs-on-ground, foundation walls, and concrete exposed to weather.
  9. Prior to the issue of Building permits, the thickness of the concrete cover over the reinforcement shall be determined by a structural engineer to protect against elevated chloride levels. The thickness shall be determined based upon the chloride concentration of on-site soils. Prior to the issue of Building permits,
    - a) The recommendations of a corrosion engineer shall be implemented to mitigate the detrimental effects of corrosive soils on buried metallic and other building materials that may be exposed to corrosive soils.
    - b) Any ferrous metal or copper components of the proposed buildings or panel foundations placed in direct contact with Project soils shall be protected against detrimental effects of severely corrosive soils.
    - c) Sampling and testing of near-surface soils shall be performed during the final stages of site grading by a qualified corrosion engineer to provide a complete assessment of soil corrosivity.

#### **Mitigations for Geology and Soils**

##### **GEO-1 Prepare Geotechnical Report(s) as Part of Final Engineering for the Project and Implement Required Measures.**

Facility design for all project components shall comply with the site-specific design recommendations as provided by a licensed geotechnical or civil engineer to be retained by the project applicant. The final geotechnical and/or civil engineering report shall address and make recommendations on the following:

Site preparation

Soil bearing capacity

Appropriate sources and types of fill

Potential need for soil amendments

Structural foundations

Grading practices

Soil corrosion of concrete and steel

Erosion/winterization



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Seismic ground shaking

Liquefaction

Expansive/unstable soils

In addition to the recommendations for the conditions listed above, the geotechnical investigation shall include subsurface testing of soil and groundwater conditions, and shall determine appropriate foundation designs that are consistent with the version of the CBC that is applicable at the time building and grading permits are applied for. All recommendations contained in the final geotechnical engineering report shall be implemented by the project applicant. The final geotechnical and/or civil engineering report shall be submitted to Imperial County Public Works Department, Engineering Division for review and approval prior to issuance of building permits.

**GEO-2 Paleontological Resources.**

In the event that unanticipated paleontological resources or unique geologic resources are encountered during ground-disturbing activities, work must cease within 50 feet of the discovery and a paleontologist shall be hired to assess the scientific significance of the find. The consulting paleontologist shall have knowledge of local paleontology and the minimum levels of experience and expertise as defined by the Society of Vertebrate Paleontology's Standard Procedures (2010) for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources. If any paleontological resources or unique geologic features are found within the project site, the consulting paleontologist shall prepare a paleontological Treatment and Monitoring Plan to include the methods that will be used to protect paleontological resources that may exist within the project site, as well as procedures for monitoring, fossil preparation and identification, curation of specimens into an accredited repository, and preparation of a report at the conclusion of the monitoring program.

**S-6 CULTURAL RESOURCES:**

1. The Archaeological Monitor shall oversee the effectiveness of the protective measures described in this measure at least twice per month during construction to ensure that unanticipated cultural resources are avoided. If an unanticipated cultural resource is discovered, the monitor will immediately notify the Construction Manager and give interim directions for protecting the site, which may include mandatory cessation of activity within 100 feet or more of the discovery. The Construction Manager will be responsible for promptly implementing those interim measures. The Archaeological Monitor shall oversee the removal of the temporary fencing after construction is completed. The Construction Manager shall be

1 required to provide a minimum of 48 hours advance notice to the archaeological  
2 monitor before fence removal occurs.

- 3 2. A qualified paleontological monitor shall be present during ground-breaking  
4 activities associated with Project construction. The depth of excavation that requires  
5 paleontological monitoring shall be determined by the paleontological monitor and  
6 the construction contractor based on initial observations during construction earth  
7 moving. The paleontological monitor will be equipped to salvage fossils as they are  
8 unearthed (to help avoid construction delays) and to remove samples of sediments  
9 that are likely to contain the remains of small fossil invertebrates and vertebrates.  
10 Monitors are empowered to temporarily halt or divert equipment to allow removal of  
11 abundant or large specimens.
- 12 3. Recovered specimens shall be prepared to a point of identification and permanent  
13 preservation, including washing of sediments to recover small invertebrates and  
14 vertebrates. Fossil specimens shall be curated by accessioning them into an  
15 established, accredited museum repository with permanent retrievable  
16 paleontological storage. A report of findings with an appended itemized inventory of  
17 specimens will be prepared. The report and inventory, when submitted to the  
18 Imperial County Department of Planning and Development Services, along with  
19 confirmation of the curation of recovered specimens into an established, accredited  
20 museum repository, will signify completion of the program to mitigate impacts to  
21 paleontological resources.

## 15 Mitigations for Cultural Resources

### 16 CR-1

17 Pursuant to CEQA Guidelines §15064.5(f), in the event that previously unidentified  
18 unique archaeological resources are encountered during construction or operational  
19 repairs, archaeological monitors will be authorized to temporarily divert construction  
20 work within 100 feet of the area of discovery until significance and the appropriate  
21 mitigation measures are determined by a qualified archaeologist familiar with the  
22 resources of the region.

23 Applicant shall notify the County within 24 hours. Applicant shall provide  
24 contingency funding sufficient to allow for implementation of avoidance measures  
25 or appropriate mitigation.

### 24 CR-2

25 In the event of the discovery of previously unidentified archaeological materials, the  
26 contractor shall immediately cease all work activities within approximately 100 feet  
27 of the discovery. After cessation of excavation, the contractor shall immediately  
28 contact the Imperial County Department of Planning and Development Services.  
Except in the case of cultural items that fall within the scope of the Native American

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Grave Protection and Repatriation Act, the discovery of any cultural resource within the project area shall not be grounds for a “stop work” notice or otherwise interfere with the project’s continuation except as set forth in this paragraph.

In the event of an unanticipated discovery of archaeological materials during construction, the applicant shall retain the services of a qualified professional archaeologist, meeting the Secretary of the Interior’s Standards for a Qualified Archaeologist, to evaluate the significance of the materials prior to resuming any construction-related activities in the vicinity of the find. If the qualified archaeologist determines that the discovery constitutes a significant resource under CEQA and it cannot be avoided, the applicant shall implement an archaeological data recovery program.

**S-7 HEALTH, SAFETY AND HAZARDOUS MATERIAL/FIRE AND FUELS MANAGEMENT**

1. All trash and debris within the Project site shall be disposed of off-site, in accordance with current, local, state, and federal disposal regulations. Compliance with this measure shall be verified by the Planning and Development Services Department.
2. If it is determined that hazardous wastes are, or will be generated by the proposed operations, the wastes must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Div 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5).
3. If it is determined that hazardous wastes will be generated, the Permittee should also obtain a United States Environmental Protection Agency, Identification Number by contacting (800) 618-6942. Certain hazardous waste treatment processes or hazardous material, handling, storage or uses may require authorization from the local Certified Unified Program Agency (CUPA). Information about the requirement for authorization can be obtained by contacting the local CUPA.
4. Firearms shall be prohibited in all Project areas except for those used by licensed security personnel.
5. Prior to the demolition of any building, structure, or transit pipe, the Applicant shall hire a California Certified Lead Inspector/Assessor and Certified asbestos Consultant to evaluate these features for the presence of lead based paint (LBP) and/or asbestos containing materials (ACM). Confirmed LBP and/or ACM shall be handled by a licensed LBP contractor and/or Licensed Asbestos Contractor. All contaminants shall be remediated in compliance with California environmental regulations and policies. LBP and/or ACM shall be disposed of according to appropriate regulations.

1 **S-8 HYDROLOGY AND WATER QUALITY**

- 2 1. Construction and operation activities within Flood Zone A shall be halted during  
3 flash flood warnings and events or any other flooding events as predicted by local  
4 weather forecasts, the National Weather Service to which the solar farm complex  
5 site is subject. Upon notification of potential flood events in the Project vicinity, any  
6 non-stationary equipment and personnel located within Flood Zone A shall be  
relocated outside of the flood zone until such time as the threat of flooding has  
passed.

7 **Hydrology Mitigation Measure**

8 **HYD-1 Prepare SWPPP and Implement BMPs Prior to Construction and Site  
9 Restoration**

10 The project applicant or its contractor shall prepare a SWPPP specific to the project  
11 and be responsible for securing coverage under SWRCB's NPDES stormwater  
12 permit for general construction activity (Order 20090009DWQ). The SWPPP shall  
13 identify specific actions and BMPs relating to the prevention of stormwater pollution  
14 from project related construction sources by identifying a practical sequence for site  
15 restoration, BMP implementation, contingency measures, responsible parties, and  
16 agency contacts. The SWPPP shall reflect localized surface hydrological conditions  
17 and shall be reviewed and approved by the project applicant prior to  
18 commencement of work and shall be made conditions of the contract with the  
19 contractor selected to build and decommission the project. The SWPPP(s) shall  
20 incorporate control measures in the following categories:

- 21 • Soil stabilization and erosion control practices (e.g., hydroseeding, erosion  
22 control blankets, mulching)
- 23 • Dewatering and/or flow diversion practices, if required (Mitigation Measure  
24 HYD2)
- 25 • Sediment control practices (temporary sediment basins, fiber rolls)
- 26 • Temporary and post-construction on and offsite runoff controls
- 27 • Special considerations and BMPs for water crossings, wetlands, and  
28 drainages
- Monitoring protocols for discharge(s) and receiving waters, with emphasis  
place on the following water quality objectives: dissolved oxygen, floating  
material, oil and grease, pH, and turbidity
- Waste management, handling, and disposal control practices
- Corrective action and spill contingency measures
- Agency and responsible party contact information
- Training procedures that shall be used to ensure that workers are aware of  
permit requirements and proper installation methods for BMPs specified in  
the SWPPP

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The SWPPP shall be prepared by a qualified SWPPP practitioner with BMPs selected to achieve maximum pollutant removal and that represent the best available technology that is economically achievable. Emphasis for BMPs shall be placed on controlling discharges of oxygen depleting substances, floating material, oil and grease, acidic or caustic substances or compounds, and turbidity. BMPs for soil stabilization and erosion control practices and sediment control practices will also be required. Performance and effectiveness of these BMPs shall be determined either by visual means where applicable (i.e., observation of above normal sediment release), or by actual water sampling in cases where verification of contaminant reduction or elimination, (inadvertent petroleum release) is required to determine adequacy of the measure.

**HYD-2 Incorporate Post-Construction Runoff BMPs into Project Drainage Plan**

The project Drainage Plan shall adhere to County’s Engineering Guidelines Manual, IID “Draft “ Hydrology Manual, or other recognized sources with approval by the County Engineer to control and manage the on and offsite discharge of stormwater to existing drainage systems. Infiltration basins will be integrated into the Drainage Plan to the maximum extent practical. The Drainage Plan shall provide both short and long term drainage solutions to ensure the proper sequencing of drainage facilities and management of runoff generated from project impervious surfaces as necessary.

**S-9 BIOLOGICAL RESOURCES:**

- 1. The Permittee’s Designated Biologist shall coordinate with the U.S. Fish & Wildlife Service (USF&WS) and the California Department of Fish and Wildlife(CD&FW) for the preparation, implementation and monitoring for protection of biological resources at the solar site.

**BIOLOGICAL MITIGATION MEASURES**

**BIO-1 Pre-Construction Plant Survey.**

Prior to initiating ground disturbance, a focused survey for Harwood’s milkvetch shall occur during its blooming period. A reference population shall be identified and confirmed to be blooming at the time that surveys are conducted on the project site.

Should Harwood’s milkvetch be present on site, project design will be evaluated to determine if modifications can be made to avoid at least 90-percent of the observed individuals or compensatory mitigation shall be provided through off-site preservation of an equivalent population.

1           **BIO-2 General Impact Avoidance and Minimization Measures.**

2           The following measures will be applicable throughout the life of the project:

3           To reduce the potential indirect impact on migratory birds, bats and raptors, the  
4           project will comply with the APLIC 2012 Guidelines for overhead utilities, as  
5           appropriate, to minimize avian collisions with transmission facilities (APLIC 2012)

6           All electrical components on the project site shall be either undergrounded or  
7           protected so that there will be no exposure to wildlife and therefore no potential for  
8           electrocution.

9           The Project proponent shall will designate a Project Biologist who shall be  
10          responsible for overseeing compliance with protective measures for the biological  
11          resources during vegetation clearing and work activities within and adjacent to  
12          areas of native habitat. The Project Biologist will be familiar with the local habitats,  
13          plants, and wildlife. The Project Biologist will also maintain communications with the  
14          Contractor to ensure that issues relating to biological resources are appropriately  
15          and lawfully managed and monitor construction. The Project Biologist will monitor  
16          activities within construction areas during critical times, such as vegetation removal,  
17          the implementation of Best Management Practices (BMP), and installation of  
18          security fencing to protect native species. The Project Biologist will ensure that all  
19          wildlife and regulatory agency permit requirements, conservation measures, and  
20          general avoidance and minimization measures are properly implemented and  
21          followed.

22          The boundaries of all areas to be newly disturbed (including solar facility areas,  
23          staging areas, access roads, and sites for temporary placement of construction  
24          materials and spoils) will be delineated with stakes and flagging prior to  
25          disturbance. All disturbances, vehicles, and equipment will be confined to the  
26          flagged areas.

27          No potential wildlife entrapments (e.g., trenches, bores) will be left uncovered  
28          overnight. Any uncovered pitfalls will be excavated to 3:1 slopes at the ends to  
29          provide wildlife escape ramps. Alternatively, man-made ramps may be installed.  
30          Covered pitfalls will be covered completely to prevent access by small mammals or  
31          reptiles.

32          To avoid wildlife entrapment (including birds), all pipes or other construction  
33          materials or supplies will be covered or capped in storage or laydown area, and at  
34          the end of each work day in construction, quarrying and processing/handling areas.  
35          No pipes or tubing of sizes or inside diameters ranging from 1 to 10 inches will be  
36          left open either temporarily or permanently.

37          No anticoagulant rodenticides, such as Warfarin and related compounds  
38          (indandiones and hydroxycoumarins), may be used within the project site, on off-  
39          site project facilities and activities, or in support of any other project activities.

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Avoid wildlife attractants. All trash and food-related waste shall be placed in self-closing containers and removed regularly from the site to prevent overflow. Workers shall not feed wildlife. Water applied to dirt roads and construction areas for dust abatement shall use the minimal amount needed to meet safety and air quality standards to prevent the formation of puddles, which could attract wildlife. Pooled rainwater or floodwater within retention basins will be removed to avoid attracting wildlife to the active work areas.

To minimize the likelihood for vehicle strikes on wildlife, speed limits will not exceed 15 miles per hour when driving on access roads. All vehicles required for O&M must remain on designated access/maintenance roads.

Avoid night-time construction lighting or if nighttime construction cannot be avoided use shielded directional lighting pointed downward and towards the interior of the project site, thereby avoiding illumination of adjacent natural areas and the night sky.

All construction equipment used for the Project will be equipped with properly operating and maintained mufflers.

Hazardous materials and equipment stored overnight, including small amounts of fuel to refuel hand-held equipment, will be stored within secondary containment when within 50 feet of open water to the fullest extent practicable. Secondary containment will consist of a ring of sand bags around each piece of stored equipment/structure. A plastic tarp/visqueen lining with no seams shall be placed under the equipment and over the edges of the sandbags, or a plastic hazardous materials secondary containment unit shall be utilized by the Contractor.

The Contractor will be required to conduct vehicle refueling in upland areas where fuel cannot enter waters of the U.S. and in areas that do not have potential to support federally threatened or endangered species. Any fuel containers, repair materials, including creosote-treated wood, and/or stockpiled material that is left on site overnight, will be secured in secondary containment within the work area and staging/assembly area and covered with plastic at the end of each work day.

In the event that no activity is to occur in the work area for the weekend and/or a period of time greater than 48 hours, the Contractor will ensure that all portable fuel containers are removed from the project site.

All equipment will be maintained in accordance with manufacturer's recommendations and requirements.

Equipment and containers will be inspected daily for leaks. Should a leak occur, contaminated soils and surfaces will be cleaned up and disposed of following the guidelines identified in the Stormwater Pollution Prevention Plan or equivalent,

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Materials Safety Data Sheets, and any specifications required by other permits issued for the project.

The Contractor will utilize off-site maintenance and repair shops as much as possible for maintenance and repair of equipment.

If maintenance of equipment must occur onsite, fuel/oil pans, absorbent pads, or appropriate containment will be used to capture spills/leaks within all areas. Where feasible, maintenance of equipment will occur in upland areas where fuel cannot enter waters of the U.S. and in areas that do not have potential to support federally threatened or endangered species.

Appropriate BMPs will be used by the Contractor to control erosion and sedimentation and to capture debris and contaminants from bridge construction to prevent their deposition in waterways. No sediment or debris will be allowed to enter the creek or other drainages. All debris from construction of the bridge will be contained so that it does not fall into channel. Appropriate BMPs will be used by the Contractor during construction to limit the spread of resuspended sediment and to contain debris.

Erosion and sediment control devices used for the proposed project, including fiber rolls and bonded fiber matrix, will be made from biodegradable materials such as jute, with no plastic mesh, to avoid creating a wildlife entanglement hazard.

Firearms, open fires, and pets would be prohibited at all work locations and access roads. Smoking would be prohibited along the Project alignment.

Cross-country vehicle and equipment use outside of approved designated work areas and access roads shall be prohibited to prevent unnecessary ground and vegetation disturbance.

Any injured or dead wildlife encountered during project-related activities shall be reported to the project biologist, biological monitor, CDFW, or a CDFW-approved veterinary facility as soon as possible to report the observation and determine the best course of action. For special-status species, the Project Biologist shall notify the County, USFWS, and/or CDFW, as appropriate, within 24 hours of the discovery.

Stockpiling of material will be allowed only within established work areas.

Actively manage the spread of noxious weeds (See Mitigation Measure BIO-5)

The ground beneath all parked equipment and vehicles shall be inspected for wildlife before moving.



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**BIO-3 Worker Environmental Awareness Program.**

Prior to project construction, a Worker Environmental Awareness Program shall be developed and implemented by a qualified biologist, and shall be available in both English and Spanish. Handouts summarizing potential impacts to special-status biological resources and the potential penalties for impacts to these resources shall be provided to all construction personnel. At a minimum, the education program shall including the following:

- the purpose for resource protection;
- a description of special status species including representative photographs and general ecology;
- occurrences of USACE, RWQCB, and CDFW regulated features in the Project study area;
- regulatory framework for biological resource protection and consequences if violated;
- sensitivity of the species to human activities;
- avoidance and minimization measures designed to reduce the impacts to special-status biological resources;
- environmentally responsible construction practices;
- reporting requirements;
- the protocol to resolve conflicts that may arise at any time during the construction process; and workers sign acknowledgement form indicating that the Environmental Awareness Training and Education Program that has been completed and would be kept on record.

**BIO-4 Desert Tortoise Avoidance and Minimization**

A qualified biologist shall conduct focused presence/absence surveys for Desert Tortoise for 100-percent of the project footprint pursuant to the October 19, 2019 Version of the USFWS Desert Tortoise Survey Protocol. If no live desert tortoise or sign of active desert tortoise is detected, no further avoidance and minimization is required.

If live desert tortoise or sign of active desert tortoise is detected, the project proponent shall initiate consultation with USFWS and CDFW to obtain the necessary federal and state ESA authorizations and the following avoidance, minimization and compensatory mitigation measures will be implemented:

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Permanent tortoise-proof fencing shall be along the perimeter of the project site. Fencing shall be installed, inspected, and maintained according to specifications in the current USFWS *Desert Tortoise (Mojave Population) Field Manual (Gopherus agassizii)*. An authorized desert tortoise biologist shall conduct pre-construction clearance surveys for the project site no more than 14-days prior to the initiation of fence installation. All potentially active burrows shall be identified for hand excavation. Pre-construction clearance surveys shall be repeated within the fenced impact area after fence installation is complete. If desert tortoise are observed they shall be relocated from within the work area to outside the fenced area by a permitted biologist.

The authorized biologist shall conduct desert tortoise pre-construction clearance surveys along all existing and new dirt access road alignments, and the Gen-tie alignment before any ground disturbing activities are initiated and prior to the start of construction activities each day during ground-disturbing activities and weekly thereafter. Relocate desert tortoises as necessary. Any handling of special-status species must be approved by the appropriate Federal and State agencies and be done in accordance with species-specific handling protocols.

Where burrows would be unavoidably destroyed, they would be excavated carefully using hand tools under the supervision of the authorized biologists with demonstrated prior experience with this species.

Inspect construction pipes, culverts, or similar structures: (a) with a diameter greater than 3 inches, (b) stored for one or more nights, (c) less than 8 inches aboveground and (d) within desert tortoise habitat, before the materials are moved, buried, or capped.

Incorporate Raven Management into the Pest Control Plan (See BIO-5)

Inspect the ground under vehicles and equipment for the presence of desert tortoise any time a vehicle or construction equipment is parked in desert tortoise habitat. If a desert tortoise is seen, it may move on its own. If it does not move within 15 minutes, an authorized biologist or biological monitor under the direction of the authorized biologist may remove and relocate the animal to a safe location.

All culverts for access roads or other barriers will be designed to allow unrestricted access by desert tortoises and will be large enough that desert tortoises are unlikely to use them as shelter sites (e.g., 36 inches in diameter or larger). Desert tortoise exclusion fencing may be utilized to direct tortoise use of culverts and other passages. If possible, pipes and culverts greater than 3 inches in diameter would be stored on dunnage to prevent wildlife from taking refuge in them, to the extent feasible.

To fully mitigate for habitat loss and potential take of the Mojave desert tortoise, the Applicant will provide compensatory mitigation at a ratio of 1:1 3:1. For the

1 purposes of this measure, the project site (i.e., footprint) means all Project areas  
2 with new direct ground disturbance during construction and operation of the Project.  
3 This includes all lands directly disturbed that will no longer provide viable long-term  
4 habitat for the Mojave desert tortoise, such as the solar field, substation and new  
5 access roads. Areas within the gen-tie line corridor where no ground disturbance  
6 will occur are not included in the area to be mitigated through compensation.  
7 Compensatory mitigation could include agency-approved payment of an in-lieu fee;  
8 acquiring mitigation land or conservation easements; restoration or habitat  
9 enhancement activities on preservation lands; or a combination of the three.

10 **BIO-5 Prepare and Implement an Operation and Maintenance Worker  
11 Education Plan.**

12 An Operation and Maintenance Worker Education Plan shall be prepared to advise  
13 personnel on general operations measures. The Worker Education Plan shall be  
14 submitted to the County of Imperial Planning and Development Services  
15 Department for review and approval prior to issuance of building permits. The  
16 following provisions shall be included in the Worker Education Plan and  
17 implemented throughout the operational lifespan of the Project: Operation and  
18 maintenance personnel shall be prohibited from:

19 Exceeding nighttime and daytime vehicle speeds of 10 miles per hour and 25 miles  
20 per hour, respectively, within the facility, on access roads and within the Gen-Tie  
21 line corridor. Speed limit signs shall be posted throughout the project site to remind  
22 workers of travel speed restrictions.

23 Harming, harassing, or feeding wildlife and/or collecting special-status plant or  
24 wildlife species.

25 Disturbing active avian nests

26 Traveling (either on foot or in a vehicle) outside of the Project footprint except on  
27 public roads.

28 Littering on the Project area.

Allowing persons not employed at the facility to remain on site after daylight hours.

Exceeding normal nighttime operational noise or lighting levels

Bringing domestic pets and firearms to the site.

The Operation and Maintenance Worker Education Plan shall require that:

All operation and maintenance vehicles and equipment park in approved  
designated areas only.

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The project site and Gen-Tie line corridor be kept clear of trash and other litter to reduce the attraction of opportunistic predators such as common ravens, coyotes, and feral dogs that may prey on sensitive species.

Operation and maintenance employees maintain Hazardous Materials Spill Kits on-site. All operation and maintenance staff shall be trained in how to use Hazardous Materials Spill Kits in the event of a spill.

An approved Long-Term Maintenance Plan for the retention/detention basins be developed and implemented.

Weed and Raven management shall be addressed in a project-specific pest management plan (See BIO-5)

Maintain shielding on external lighting to direct down and towards the project site and away from adjacent undeveloped land.

Workers sign acknowledgement form indicating that the Environmental Awareness Training and Education Program that has been completed and would be kept on record

desert tortoise avoidance and minimization measures be implemented if desert tortoise is detected during pre-construction surveys

The ground beneath all parked equipment and vehicles shall be inspected for wildlife before moving.

Personnel are trained to avoid causing wildfires and manage them safely and promptly if necessary

**BIO-6 Burrowing Owl Avoidance and Minimization.**

Take Avoidance (pre-construction) surveys for burrowing owl shall be completed prior to project construction. Surveys shall be conducted as detailed within Appendix D of the Staff Report on Burrowing Owl Mitigation (California Department of Fish and Game [CDFG] 2012). If burrowing owl is not detected, construction may proceed.

If burrowing owl is identified during the non-breeding season (September 1 through January 31), then a 50 meter buffer will be established by the biological monitor. Construction within the buffer will be avoided until a qualified biologist determines that burrowing owl is no longer present or until a CDFW-approved exclusion plan has been implemented. The buffer distance may be reduced if noise attenuation buffers such as hay bales are placed between the occupied burrow and construction activities.

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2 If burrowing owl is identified during the breeding season (February 1 through  
3 August 31), then an appropriate buffer will be established by the biological monitor  
4 in accordance with the *Staff Report on Burrowing Owl Mitigation* (CDFG 2012).  
5 Construction within the buffer will be avoided until a qualified biologist determines  
6 that burrowing owl is no longer present or until young have fledged. The buffer  
7 distance may be reduced in consultation with CDFW if noise attenuation buffers  
8 such as hay bales are placed between the occupied burrow and construction  
9 activities.

#### 7 **BIO-7 Pre-Construction Nesting Bird Surveys.**

8 To the extent possible, construction shall occur outside the typical avian breeding  
9 season (February 15 through September 15). If construction must occur during the  
10 general avian breeding season, a pre-construction nest survey shall be conducted  
11 within the impact area and a 500-foot (150-meter) buffer by qualified biologist no  
12 more than 7 days prior to the start of vegetation clearing and/or ground disturbing  
13 construction activities in any given area of the Project footprint. Construction crews  
14 shall coordinate with the qualified biologist at least 7 days prior to the start of  
15 construction in a given area to ensure that the construction area has been  
16 adequately surveyed. A nest is defined as active once birds begin constructing or  
17 repairing the nest in readiness for egg-laying. A nest is no longer an "active nest" if  
18 abandoned by the adult birds or once nestlings or fledglings are no longer  
19 dependent on the nest. If no active nests are discovered, construction may  
20 proceed. If active nests are observed that could be disturbed by construction  
21 activities, these nests and an appropriately sized buffer (typically a 200-foot  
22 (61-meter) buffer for non-raptor species nests and at least a 500-foot (150-meter)  
23 buffer for raptor or federally listed species nests) would be avoided until the young  
24 have fledged. Final construction buffers or setback distances shall be determined  
25 by the qualified biologist in coordination with USFWS and CDFW on a  
26 case-by-case basis, depending on the species, season in which disturbance shall  
27 occur, the type of disturbance, and other factors that could influence susceptibility  
28 to disturbance (e.g., topography, vegetation, existing disturbance levels, etc.).  
Active nests shall be avoided until the young have fledged and/or the monitor  
determines that no impacts are anticipated to the nesting birds or their young. If  
vegetation clearing and/or ground disturbing activities cease for 14 or more  
consecutive days during the nesting season in areas where suitable nesting habitat  
remains, repeat nesting bird surveys shall be required to ensure new nesting  
locations have not been established within the impact area and the defined buffers.

#### 24 **BIO-8 Develop a Bird and Bat Conservation Strategy (BBCS).**

25 A BBCS shall be developed by the Project Applicant in coordination with the County  
26 of Imperial, USFWS, and CDFW.

27 The BBCS will include the following components:

1 A description and assessment of the existing habitat and avian and bat species;

2 An avian and bat risk assessment and specific measures to avoid, minimize,  
3 reduce, or eliminate avian and bat injury or mortality during all phases of the  
4 project.

5 A post-construction monitoring plan that will be implemented to assess impacts on  
6 avian and bat species resulting from the Project.

7 The post-construction monitoring plan will include a description of standardized  
8 carcass searches, scavenger rate (i.e., carcass removal) trials, searcher efficiency  
9 trials, and reporting. Statistical methods will be used to estimate Project avian and  
10 bat fatalities if sufficient data is collected to support statistical analysis.

11 An injured bird response plan that delineates care and curation of any and all  
12 injured birds.

13 A nesting bird management strategy to outline actions to be taken for avian nests  
14 detected within the impact footprint during operation of the Project.

15 A conceptual adaptive management and decision-making framework for reviewing,  
16 characterizing, and responding to monitoring results.

17 Monitoring studies following commencement of commercial operation of each CUP  
18 area. Monitoring results will be reviewed annually by the Applicant and the County  
19 of Imperial, in consultation with CDFW and USFWS, to inform adaptive  
20 management responses. During Project construction, incidental avian carcasses or  
21 injured birds found during construction shall be documented. Should a carcass be  
22 found by Project personnel, the carcass shall be photographed, the location shall  
23 be marked, the carcass shall not be moved, and a qualified biologist shall be  
24 contacted to examine the carcass. When a carcass is detected, the following data  
25 shall be recorded (to the extent possible): observer, date/time, species or most  
26 precise species group possible, sex, age, estimated time since death, potential  
27 cause of death or other pertinent information, distance and bearing to nearest  
28 structure (if any) that may have been associated with the mortality, location  
(recorded with Global Positioning System), and condition of carcass.

If any federal listed, state listed or fully protected avian carcasses or injured  
birds are found during construction or post-construction monitoring, the  
Project Applicant shall notify USFWS and CDFW within 24 hours via email or  
phone and work with the resource agencies to determine the appropriate  
course of action for these species. For such listed species, the CUP owner  
shall obtain or retain a biologist with the appropriate USFWS Special  
Purpose Utility Permit(s) and CDFW Scientific Collecting Permit(s) to collect  
and salvage all dead and injured birds, and store/curate them in freezers for  
later disposition and analysis.

1 **BIO-9 Pre-Construction Surveys for American Badger.**

2 Preconstruction surveys shall be conducted by a qualified biologist for the presence  
3 of American badger dens within 14 days prior to commencement of construction  
4 activities. The surveys shall be conducted in areas of suitable habitat for American  
5 badger, which include desert scrub habitats. Surveys need not be conducted for all  
6 areas of suitable habitat at one time; they may be phased so that surveys occur  
7 within 14 days prior to that portion of the project site disturbed. If potential dens are  
8 observed and avoidance is feasible, the following buffer distances shall be  
9 established prior to construction activities:

10 American badger potential den: 30 feet.

11 American badger active den: 100 feet.

12 American badger natal den: 500 feet.

13 If avoidance of the potential dens is not possible, the following measures are  
14 required to avoid potential adverse effects to the American badger

15 Outside the reproductive season defined as February 1 through September 30 for  
16 American badger if the qualified Lead Biologist determines through camera  
17 monitoring for three consecutive days that potential dens are inactive, the biologist  
18 shall excavate these dens by hands with a shovel to prevent American badgers  
19 from re-using them during construction.

20 Outside of the reproductive season defined as February 1 through September 30  
21 for American badger if the Lead Biologist determines that potential dens may be  
22 active, an onsite passive relocation program shall be implemented. This program  
23 shall consist of excluding American badgers from occupied burrows by installation  
24 of one-way doors at burrow entrances, monitoring of the burrow for seven days to  
25 confirm usage has discontinued, and excavation and collapse of the burrow to  
26 prevent reoccupation. After the qualified biologist determines that American  
27 badgers have stopped using the dens within the project boundary, the dens shall be  
28 hand-excavated with a shovel to prevent use during construction.

29 **BIO-10 Compensatory Mitigation for Riparian Woodland and Ephemeral Wash.**

30 Following the completion of project construction, Palo Verde- Ironwood Woodland  
31 will be created, enhanced and or conserved within the undeveloped portions of the  
32 project site at a ratio of 3:1 (i.e., 3 acres created or enhanced for each acre  
33 impacted)by permanent or temporary project activities).

34 Permanent impacts to jurisdictional waters and wetlands shall be mitigated at a  
35 minimum 1:1 ratio either through on-site and/or off-site re-establishment,  
36 enhancement and conservation of jurisdictional waters or through an

1 approved-mitigation bank or in lieu fee program, if one is available. The type of  
2 mitigation, mitigation location and the final mitigation ratios will be established  
3 during the permit process for the Project's USACE Section 404 permit, the RWQCB  
4 Section 401 Water Quality Certification, and a CDFW Streambed Alteration  
5 Agreement.

6 **BIO-11 Develop and Implement a Pest Management Plan.**

7 The Project shall develop and implement a Pest Management Plan that will reduce  
8 negative impacts to surrounding (not necessarily adjacent) farmland during  
9 construction, operation and reclamation. The Plan shall include:

10 Methods for Preventing the Introduction and Spread of pests, including weeds.

11 Monitoring methods for all agricultural pests and weeds with potential to adversely  
12 impact adjacent native habitat (Species on California Invasive Plants Council  
13 Inventory rated as Moderately to Highly Invasive) to including insects, vertebrates,  
14 weeds, and pathogens.

15 Eradication and Control Methods All treatments must be performed by a qualified  
16 applicator or a licensed pest control business.

17 "Control" means to reduce the population of common pests below economically  
18 damaging levels, and includes attempts to exclude pests before infestation, and  
19 effective control methods after infestation.

20 Effective control methods may include physical/mechanical removal, biocontrol,  
21 cultural control, or chemical treatments.

22 Use of "permanent" soil sterilants to control weeds or other pests is prohibited due  
23 to the fact that this would interfere with reclamation.

24 Notification Requirements: o Notify the Agricultural Commissioner's office  
25 immediately regarding any suspected exotic/invasive pest species as defined by the  
26 California Department of Food Agriculture (CDFA) and the USDA.

27 Request a sample be taken by the Agricultural Commissioner's Office of a  
28 suspected invasive species.

Eradication of exotic pests will be done under the direction of the Agricultural  
Commissioner's Office and/or CDFA.

Obey all pesticide use laws, regulations, and permit conditions.

Allow access by Agricultural Commissioner staff for routine visual and trap pest  
surveys, compliance inspections, eradication of exotic pests, and other official  
duties.



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2 Ensure that all project employees that handle pest control issues are appropriately  
3 trained and certified, that all required records are maintained and available for  
inspection, and that all permits and other required legal documents are current.

4 Maintain records of pests found and treatments or pest management methods  
5 used. Records should include the date, location/block, project name (current and  
6 previous if changed), and methods used. For pesticides include the chemical(s)  
used, EPA Registration numbers, application rates, etc. A pesticide use report may  
be used for this.

#### 7 Reporting Methods

8 Submit a report of monitoring, pest finds, and treatments, or other pest  
9 management methods to the Agricultural Commissioner quarterly within 15 days  
10 after the end of the previous quarter, and upon request.

11 The report is required even if no pests were found or treatment occurred. It may  
12 consist of a copy of all records for the previous quarter, or may be a summary  
letter/report as long as the original detailed records are available upon request.

### 13 **S-10 FIRE PREVENTION BUREAU:**

#### 14 O&M Buildings:

15 The type of suppression system that will be used for the O&M Building must be  
16 described in the project; also the hours and amounts of staffing that will be used. In  
17 addition, include a description of your emergency and hazardous material plan.  
18 Provide the square footage of all supporting structures to determine if the buildings  
will require sprinkler systems.

#### 19 Road Access and Array Requirements:

20 Dimensions: Alley roads shall have an unobstructed width of not less than 20 feet  
21 (6096 mm), except for approved security gates in accordance with Section 503.6,  
22 and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).  
23 The width in-between arrays shall be a minimum of 9 feet (2704mm). The width  
between arrays shall not be less than 10 feet (3048mm). Any array that exceeds a  
distance in length of 500 feet shall provide a turn around.

24 Turning radius: The required turning radius of a fire apparatus access road shall be  
25 a minimum of 70 by 90 degrees diameter

26 Access and loading: Facilities, buildings or portions of buildings hereafter  
27 constructed shall be accessible to fire department apparatus by way of an approved  
fire apparatus access road with an asphalt, all weathered, concrete, or other

1 approved driving surface capable of supporting the imposed load of fire apparatus  
2 weighing at least 75,000 pounds (34 050 kg).

3 Fire apparatus access road gates: Gates securing the fire apparatus access roads  
4 shall comply with all of the following criteria:

- 5 1. The minimum gate width shall be 20 feet (6096 mm).
- 6 2. Gates shall be of the swinging or sliding type.
- 7 3. Construction of gates shall be of materials that allow manual operation by one  
8 person.
- 9 4. Gate components shall be maintained in an operative condition at all times and  
10 replaced or repaired when defective.
- 11 5. Electric gates shall be equipped with a means of opening the gate by fire  
12 department personnel for emergency access. Emergency opening devices shall be  
13 approved by the fire code official.
- 14 6. Locking device specifications shall be submitted for approval by the fire code  
15 official
- 16 7. Any gates on-site shall have a "Knox" lock and be rapidly accessible by the  
17 Imperial County Fire Department/OES

18 **Water Requirement:**

- 19 1) Provide a 10,000 gallon water storage tank dedicated for fire suppression for  
20 any proposed O&M structures.
- 21 2) Provide a 10,000 gallon water storage tank dedicated for fire suppression  
22 before any combustible material is moved on site for during construction.

23 **Fiscal Impacts:**

24 For operation and maintenance fees associated with Fire Department/OES

- 25 (a) Permittee shall pay a fee of \$50 per acre per year prior to commencement of  
26 the construction period to address the Imperial County Fire/OES expenses for  
27 service calls within the project Utility/Transmission area. Said amount shall be  
28 prorated on a monthly basis for periods of time less than a full year. Permittee  
shall provide advance, written notice to County Executive Office of the  
construction schedule and all revisions thereto.

Permittee shall pay an annual fee of \$20 per acre per year during the post-  
construction, operational phase of the project to address the Imperial County  
Fire/OES expenses for service calls within the Project Utility/Transmission area.

1 Said fee will be paid to the Fire Department to cover on-going maintenance and  
2 operations cost created by the project.

- 3 (b) Cost associated with items two above items shall annually adjusted on January  
4 1<sup>st</sup> to add a CPI (Los Angeles) increase. Such costs associated with these items  
5 can be readjusted in the County's sole discretion if a new service analysis is  
6 prepared and that service analysis is approved by both the County and the  
7 Permittee.

8 Fire- In lieu of providing all-weather access roads for fire protection vehicles, the  
9 permittee shall be permitted to provide compacted dirt roads (in compliance with  
10 ICAPCD's rules and regulations) for fire protection vehicles if prior to the issuance  
11 of any grading permit for the Project shall purchase an Fire Engine with All Terrain  
12 Capabilities as specified and approved by the Fire Department. The Fire Engine  
13 cost estimate will be at Current Market Value for approved Fire Engine. Final Cost,  
14 conditions and equipment of the Fire Engine shall be determined prior to the  
15 issuance of the initial grading permit. The County agrees to require, as a condition  
16 of approval, other developers in the area to reimburse the Applicant for the  
17 expenses associated with the purchase of the Fire Engine. The Permittee shall be  
18 reimbursed only for those expenses in excess of their proportionate share for the  
19 purchase of the Fire Engine that the Permittee would have been required to pay.  
20 Furthermore, if a Fire Engine was already purchased by another developer in t the  
21 area, then the Permittee shall only be required to pay a fire mitigation in the amount  
22 of up to \$100 per acre that would represent their proportionate share to reimburse the  
23 purchaser of the Fire Engine. The County shall be responsible for the managing the  
24 reimbursement component of this condition of approval.

25 Permittee shall participate in the Imperial County Public Benefit Program for the life  
26 of the CUP and shall at all times be a party to a public benefit agreement in a form  
27 acceptable to the County Counsel in order to pay for all cost, benefits, and fees  
28 associated with the approved project. Approval of this public benefit agreement will  
be by the Board of Supervisors prior to the issuance of the first building permit.

#### 21 **S-11 PUBLIC SERVICES:**

- 22 1. If Permittee receives an exclusion of applicable sales and use tax payable to the  
23 County of Imperial under Senate Bill 71 under the State Public Resource Code  
24 (Section 26003, et al.) and the California Alternative Energy and Advanced  
25 Transportation Financing Authority (CAETFA), Permittee shall pay to the County  
26 and Local Transportation Authority an amount equal to the sales tax (currently at  
27 1.5%) which would have been received if Permittee had not obtained such  
28 exclusion.

- a) Permittee shall require that its general construction contractor exercise its option  
to obtain a Board of Equalization (BOE) sub-permit for the jobsite and allocate

1 all eligible use tax payments to Imperial County and LTA. Permittee will require  
2 that the general contractor provide County of Imperial with either a copy of their  
3 BOE account number and sub-permit. To accomplish this, Permittee shall either  
4 cause its general construction contractor to treat the project in accordance with  
5 California Regulation 1521(b)(2)(B), California Regulation 1521(c)(13)(B), and  
6 California Regulation 1826(b) for sales and use tax purposes or form a "Buying  
7 Company" as defined in the State of California Board of Equalization Regulation  
8 1699(h). Permittee can adopt an alternate methodology to accomplish this goal  
9 if such methodology is approved by the County Executive Officer prior to  
10 issuance of building permits. Permittee shall require its general construction  
11 contractor to use commercially reasonable best efforts to cause its  
12 subcontractors and vendors to obtain similar sub-permits for the jobsite and to  
13 allocate all eligible sales and use tax payment to Imperial County and LTA.

14 b) Permittee shall direct use taxes on out-of-County taxable purchased  
15 construction related items to Imperial County, to the extent permitted and  
16 consistent with state use tax law.

17 c) Permittee shall use its best efforts, consistent with state law, to source taxable  
18 purchases from price competition construction retail vendors within the County  
19 of Imperial in order to further source sales to County.

20 d) The Permittee shall exclude from assessment and taxation under California  
21 Revenue and Taxation Code Section 73 (AB 1451) only that property  
22 qualifying as an Active Solar Energy System, pursuant to the applicable  
23 guidelines issued by the Board of Equalization.

24 2. The Permittee shall widely publicize to County residents the availability of job  
25 opportunities associated with the project (whether or not those job opportunities  
26 are within Imperial County or are regional). Since the majority of the population  
27 residents in the incorporated Cities of the County, dissemination of the information  
28 should be relatively easy. Postings at City Halls, newspaper and television  
advertisements, local job centers, and dedicated website shall offer sufficient  
avenues of communication. The Imperial County Office of Employment and  
Training in addition to the Imperial Valley College presents viable sources for  
community awareness. The information shall provide available positions, details of  
positions including qualifications, number of openings, indicated the anticipated  
start date for each, and application process. In order to maintain oversight of the  
process, the application process can be completed both on a dedicated website  
and at dedicated computers at the County which would afford those without  
Internet connection the ability to apply. The Permittee's information shall be  
forwarded to the Permittee or their contractor and copies of applications files are  
maintained at the County.

3. During the development phase of the project, the Permittee shall provide a roster of  
employees to include their position and place of residence. Permittee shall also  
attempt to coordinate a ride-share program with Caltrans and other regional

1 employers to facilitate the employment of Imperial County residents in jobs related  
2 to this project.

3 4. Unless prohibited by local, state or federal law or regulation, Permittee shall make  
4 good faith efforts to hire qualified residents of the Imperial County with the  
5 objective that a majority of the total work force is comprised of the Imperial County  
6 residents.

7 5. The Permittee shall install and implement security measures which may include,  
8 but not limited to, secured perimeter fencing with barbed wire, sensors, with  
9 controlled access points, security alarms, security camera systems, security guard  
10 vehicle patrols to deter trespass or unauthorized activities that would interfere with  
11 operation of the proposed project.

12 6. Permittee shall compensate the County pursuant to the Department of  
13 Environmental Health Fee Schedule for any costs of calls related to bees and  
14 mosquitoes.

15 7. The Permittee shall reimburse the Sheriff's Department for any investigations  
16 regarding theft on the Project site and related law enforcement.

17 8. Permittee shall enter into a Public Benefit Agreement with the County of Imperial to  
18 provide for a monetary benefit payable to the County to maximize the benefits of  
19 the Project to the Imperial County prior to the issuance of the first Building/Grading  
20 permit.

21 9. All construction supervisors and foremen shall be provided with communication  
22 devices, cell phones or walkie-talkies, in the event of an emergency situation on-  
23 site.

24 10. For operation and maintenance fees associated with Fire Department/OES:

25 a. Permittee shall pay a fee of \$50 per acre per year prior to commencement of  
26 the construction period to address the Imperial County Fire/OES expenses  
27 for service calls within the Project's Utility/Transmission area. Said amount  
28 shall be prorated on a monthly basis for periods of time less than a full year.  
Permittee shall provide advance, written notice to County Executive Office of  
the construction schedule and all revisions thereto.

b. Permittee shall pay an annual fee of \$20 per acre per year during the post-  
construction, operational phase of the Project to address the Imperial County  
Fire/OES expenses for service calls within the Project's Utility/Transmission  
area. Said fee will be paid to the Fire Department to cover on-going  
maintenance and operations costs created by the project.

c. Costs associated with items two above items shall be annually adjusted on  
January 1st to add a CPI (Los Angeles) increase. Such costs associated with

1 these items can be readjusted in the County's sole discretion if a new service  
2 analysis is prepared and that service analysis is approved by both the  
3 County and the Permittee.

4 **S-12 COMMENCEMENT OF WORK:**

- 5 1. Permittee shall commence construction of the permitted activities or provide  
6 substantial evidence of substantial progress within 12 months from the effective  
7 date of this permit, i.e. approval date.

8 **S-13 CONSTRUCTION STANDARDS**

- 9 1. The solar energy facility structures shall be built in accordance with the California  
10 Building Code requirements applicable to "Seismic Category D". All structures and  
11 facilities shall be designed in accordance with the publication entitled  
12 "Recommended Lateral Force Requirements and Commentary by the Structural  
13 Engineers Association of California". The structural components of the permitted  
14 facilities shall be reviewed by the Building Official/Planning and Development  
15 Services Director. Applicable building permits shall be procured from the County  
16 for facilities prior to commencement of construction of such facilities.

17 **S-14 EMERGENCY RESPONSE/ACTION PLAN:**

- 18 1. The Permittee shall prepare an Emergency Response/Action Plan that has been  
19 approved by the Imperial County Fire/OES Department, and the Local Enforcement  
20 Agency. Any hazardous materials storage areas shall be designed with curbs or  
21 other containment measures, e.g. double-walled storage tanks, to contain spills and  
22 leaks and if on-site hazardous materials exceed 55 gallons, a "Hazardous Material  
23 Management Plan" shall be prepared and approved by the County LEA and CUPA.
- 24 2. The Emergency Response/Action Plan shall cover all possible emergencies, e.g.  
25 major fluid spills, earthquakes, fires, floods or other emergencies. At all times,  
26 there shall be at least one employee either on the facility premises or on-call (i.e.,  
27 available to respond to an emergency by reaching the facility within a short period  
28 of time) with the responsibility of coordinating all emergency response measures.  
This Emergency Coordinator shall be thoroughly familiar with all aspects of the  
solar facility's Emergency Response/Action Plan, all operations and activities at the  
facility, location of all records within the facility and the facilities layout. This person  
shall have the authority to commit the resources needed to carry out the  
contingency plan. Adequate personnel and equipment shall be available to respond  
to emergencies and to insure compliance with the conditions of the permit.
3. The Emergency Response/Action Plan shall be prepared in consultation with, but  
not be limited to, the Imperial County Fire Protection/Office of Emergency Services,  
County Environmental Health Services/Health Department, County  
Sheriff/Coroner's office, County Public Works Department, Planning and

1 Development Services Department, and other appropriate state and county  
2 agencies. The plan shall include a notification list of response agencies which shall  
3 be notified immediately upon the discovery of a reportable unauthorized discharge  
4 and the list shall include: Imperial Fire Protection/Office of Emergency Services,  
5 Planning and Development Services Department, County Environmental Health  
6 Services/Health Department, County Department of Public Works (DPW),  
7 California Highway Patrol, as applicable.

8 4. All employees shall be trained by classroom and hands-on training on safety  
9 procedures, maintenance programs and emergency response protocols to ensure  
10 safety and reliability in the event of an unforeseen emergency situation.

11 5. The Permittee shall provide adequate safety devices against the hazard of fire and  
12 explosion for activities that involve the use and storage of flammable, explosive or  
13 highly corrosive or reactive materials as well as provide adequate fire-fighting and  
14 fire suppression equipment and using devices standard within the industry in  
15 compliance with all applicable state and local laws as determined by the Fire Chief,  
16 Office of Emergency Services.

17 6. The Permittee shall implement all State and County-approved worker safety and  
18 fire protection plans and programs.

19 7. Any gates on-site shall have a "knox" lock and be rapidly accessible by the Imperial  
20 Fire Protection/Office of Emergency Services.

21 8. Appropriate first aid provisions for facility operations shall be made for emergency  
22 response during Project construction, operation, and maintenance activities with  
23 appropriate first aid training for Project employees.

24 9. During construction, a member of each working crew shall be trained in basic first  
25 aid and supplied with necessary medical equipment to respond to emergencies as  
26 provided for in the Emergency Response/Action Plan required above.

27 10. Permittee shall identify a responsible agent for emergency purposes, whose name,  
28 title, e-mail address and telephone number, which shall be provided to the County  
Department of Public Works, County Fire Protection/OES Department, County  
Environmental Health Services/Health Department, County Sheriff/Coroner's office,  
Imperial Irrigation District (IID), and County Planning and Development Services  
Department.

#### 23 **S-15 LAND USE IMPROVEMENTS**

24 1. The Permittee shall prepare an appropriate parking plan for review and approval by  
25 the County Planning and Development Services and County Public Works  
26 Department for all proposed Operation & Maintenance buildings if applicable.

27 2. The Permittee shall surface with a minimum of three (3) inches of asphaltic  
28 concrete paving or material of higher quality all access drives, parking areas, and

1 vehicular maneuvering areas from Simpson Road to any constructed operation and  
2 maintenance buildings.

- 3 3. Prior to any grading permit issuance, the Imperial County Building Official and or  
4 Planning and Development Services Director shall review and approve of the  
5 Floodplain Development Permit” for (APN 025-260-024-000 & 025-280-003-000)  
6 within any area of special flooding hazards or areas of mudslides (i.e. mudflow)  
7 established in Section 91603.01 of the Imperial County Land Use Ordinance.

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10 **S-16 NOISE STANDARDS:**

- 11 1. During the construction period, heavy truck traffic to/from the solar facilities shall be  
12 limited to the hours between 7:00 AM and 7:00 PM. If construction is needed  
13 outside the standard hours of operation, the Permittee will be required to submit a  
14 request to the Planning & Development Services Director.
- 15 2. During construction, in accordance with Imperial County Noise Element of the  
16 General Plan, the noise level shall not exceed 75 dBA<sub>Leq</sub> at the property boundary  
17 when averaged over an 8-hour period.
- 18 3. During operation of the facility, the maximum permitted continuous sound level shall  
19 be not more than 45 dBA<sub>Leq</sub>, as measured at the nearest residence using the “A”  
20 scale and measured with a sound level meter and associated octave band  
21 analyzer. The level may be exceeded by ten percent (10%) if the noise is  
22 intermittent and during daylight hours.
- 23 4. Haul trucks and other engine-powered equipment shall be muffled and operated  
24 with engine exhaust brake use limited to emergencies.

25  
26 **S-17 ODOR CONTROL.**

- 27 1. The Permittee shall control all odor-causing, harmful, noxious emissions to insure  
28 that quantities or air contaminants released as a result of the permitted facilities do  
not exceed County, State or Federal standards, nor constitute a public nuisance,  
per the Land Use Ordinance, Division 13, Enforcement, Chapter 2, Abatement of  
Nuisances, Sections 91302.00 through 91301.02.

**S-18 PLAN APPROVALS:**

1. Permittee shall submit to the County Planning and Development Services  
Department, architectural, landscaping and lighting plans prior to construction of  
those facilities, to include painting of structures, planting of trees and/or vegetation,  
and shall receive all approvals prior to commencing construction of the applicable  
permitted facilities. Approval shall not be unreasonably withheld so long as the  
plans are consistent with applicable Land Use Ordinance requirements.



1  
2 **S-19 PROJECT DESIGN:**

- 3 1. All facility access and parking areas shall be constructed to the standards of the  
4 Land Use Ordinance.
- 5 2. All permitted activities shall provide for the minimum feasible surface land  
6 disturbance for compatibility with the existing uses wherever possible.
- 7 3. All equipment and electrical interconnection facilities used at the solar plant  
8 facilities shall be maintained in a manner that prevents breaking, cracking, and  
9 leaking, e.g. operator staffing and training, including appropriate quality assurance  
10 procedures, with the operation of back-up or auxiliary facilities when necessary.
- 11 4. A Storm-water Pollution Prevention Plan (SWPPP) shall be prepared for  
12 construction of the project in accordance with the requirements of the County of  
13 Imperial and the RWQCB (See S-8, Hydrology and Water Quality, Item #1).
- 14 5. All on-site basins shall be designed and constructed under the supervision of a  
15 California-licensed Civil Engineer meeting sound engineering standards, with all  
16 applicable regulations and all requirements of the County Environmental Health  
17 Services/Health Department and Public Works Departments are complied with.
- 18 6. Obtain encroachment permits for any construction or operation on IID existing right  
19 of way or easements.

20 **S-20 REPORTING AND MONITORING:**

- 21 1. The Permittee shall furnish to the County, within a reasonable time, any  
22 relevant reports/information which the County requires for monitoring  
23 purposes to determine whether cause exists for revoking this permit, or to  
24 determine compliance with this permit. The Permittee shall submit all  
25 required reports to the Planning Director, County Planning and Development  
26 Services Department, 801 Main Street, El Centro, CA 92243.
- 27 2. Permittee and Imperial County Development Services Department Director  
28 shall agree upon a third party environmental consultant for overseeing all the  
required mitigation, conditional use permit conditions and public benefit  
agreement requirements during the construction of project.

3. Permittee shall pay for this third party environmental consultant monitoring and compliance through a memorandum of understanding (MOU) between the County of Imperial, the Developer and the third party consultant. This environmental consultant shall oversee and manage the entire team of specialists needed for the environmental compliance of project, i.e. biologist, cultural experts, burrowing owls monitoring, etc.
4. The Planning and Development Services Department, in consultation with the third party Environmental Consultant and the County Executive Office, will require that all mitigation measures be satisfied, all mitigation monitoring and Reporting Program requirements have been satisfied, all Conditions of Approval in the Conditional Use Permit are in full compliance and all conditions of the Development Agreement have been satisfied before the Final Certificate of Occupancy Certificate is issued.
5. During the operation of solar facility, an Annual Compliance Report shall be submitted to the Planning & Development Services Department, documenting the implementation of the conditions and general measures as well as any resource-specific measures.
6. The Permittee shall reimburse the Imperial County Planning & Development Services Department for monitoring and investigations related to the construction and operation of the Project. Permittee shall compensate the County pursuant to the Imperial County Planning & Development Services Department Fee Schedule for any costs incurred.

Permittee shall pay for all costs as required to comply with the Conditions of Approval, and shall implement all required mitigation measures as indicated in the Final Environmental Impact Report (FEIR) and Mitigation Monitoring, Reporting Program (MMRP). If mitigation measures for FEIR and MM&RP are more stringent than the conditions in this permit, the FEIR & MM&RP mitigations will be required.

**S-21 SPILLS AND RUNOFF:**

1. The Permittee shall design and construct the permitted facilities to prevent spills from endangering adjacent properties and to prevent runoff from any source being channeled or directed in an unnatural way so as to cause erosion, siltation, or other detriments pursuant to the construction Storm Water Pollution Prevention Plan approved by the Regional Water Quality Control Board.

**S-22 SOLAR FACILITIES CLOSURE AND SITE RESTORATION:**

1. Permittee shall implement the site restoration plan as outlined within the plan when the operation of the permitted facilities herein authorized has ceased, all facilities shall be dismantled, and the lands involved restored to their pre-construction condition and available for agricultural production uses as agreed to by the County Planning and Development Services Director. Within thirty (30) days prior to

1 ground disturbance, a Bond, or other acceptable surety, in the amount of the  
2 estimated site restoration financial calculations/bond, for the developed project area  
3 as specified in the [or grading plan(s) area], or other forms of security acceptable to  
4 County Counsel's office, shall be filed with the County that guarantees restoration  
5 of the land to its condition prior to the permitted solar plant development. Upon  
6 completion of such site restoration, and demonstration that the land has been  
7 restored to the current existing condition prior to the permitted solar plant  
8 development the Bond or other surety shall be released by the County.

- 9 2. The above financial calculations/bond shall be reviewed every five (5) years in  
10 December and adjusted on January 1<sup>st</sup> to add a CPI (Los Angeles) increase by the  
11 Planning and Development Services Director. This readjustment can be made in  
12 the County's sole discretion if approved by both the County and the Permittee.

### 9 **S-22 PUBLIC WORKS**

- 10 1. Cuff Road is classified as Local County (Residential)-two (2) lands, requiring sixty  
11 feet (60) of right of way, being thirty (30) feet from existing centerline. It is required  
12 that sufficient right of way be provided to meet this road classification.
- 13 2. Wilkins Road is classified as Minor Collector-Local Collector, two (2) lanes,  
14 requiring seventy (70) feet of right of way, being thirty (30) feet from existing  
15 centerline. It is required that sufficient right of way be provided to meet this road  
16 classification.
- 17 3. According to the County of Imperial Codified Ordinances, any site plan submitted  
18 with an application for permitting shall show the dimensions, which includes  
19 bearings, of all properties lines. All distances from the property lines(s) to the  
20 structures shall also be shown on the site plan. The applicant shall revised the site  
21 plan and submit at the earliest convenience.
- 22 4. The access road on the east side of the property connecting to Cuff Road (Gas  
23 Line Road) as illustrated on Figure 3-3 of the Project Description Document has the  
24 potential to encroach into Zone A of the FEMA Flood Insurance Map Panel  
25 06025C0450C.

26 The findings of the Initial Study under Section X-Hydrology and Water  
27 Quality, Subsection c) iv, shall state that either no access road will be  
28 constructed within the flood zone or that mitigation measures will be provided  
during the EIR.

- 29 5. Section XVII – Transportation, Subsection d), of the Initial Study refers to site  
30 emergency access and is evaluated as having Less than Significant Impacts. This  
31 section does not make a mention of access roads from the project site to County  
32 roads.

1 The findings on Section XVII-Transportation, Subsection d), of the Initial  
2 Study shall include impacts the access road east of the project site to Cuff  
3 Road (Gas Line Road and the two access roads west of the project site to  
4 Wilkins Road. This finding shall be revised to be Potential Significant  
Impact.

5 Prior to development, the developer shall meet the following requirements:

- 6 A. Any access roads to the project site shall abut to County roads. Access roads  
7 through private properties shall require easement from property owners.
- 8 B. Any activities and/or work within Imperial County right-of-way shall be completed  
9 under a permit issued by this Department (encroachment permit) as per Chapter  
10 12.12.-Excavation on or Near a Public Road of the Imperial County Ordinance.

11 a. Any activity and/or work may include, but not be limited to, the installation  
12 of temporary stabilized construction entrances, primary access  
driveways, secondary emergency access driveways, site fence  
13 installation, underground/overhead electrical crossing, road  
14 improvements, temporary traffic control, etc.

- 15 C. Corner record is required to be filed with the Imperial County Surveyor for  
16 monuments prior to construction:

17 8771. (b) When monuments exist that control the location of subdivision, tracts,  
18 boundaries, roads, streets, or highways, or provide horizontal or vertical  
19 survey control, the monuments shall be located and referenced by or under  
the direction of a licensed land surveyor or licensed civil engineer legally  
20 authorized to practice land surveying, prior to the tie when any streets,  
21 highways, other right-of-way, or easement are improved, constructed,  
22 reconstructed, maintained, resurfaces, or relocated, and a corner record or  
23 record of survey of the reference shall be filed with the county surveyor.

- 24 D. A second corner record is required to be filed with the Imperial County Surveyor  
25 for monuments:

26 8771. (c) A permanent monument shall be reset in the surface of the new  
27 construction or a witness monument or monuments set to perpetuate the  
28 location if any monument could be destroyed, damaged, covered, disturbed,  
or otherwise obliterated, and a corner record or record of survey shall be  
filed with the county surveyor prior to the recording of a certificate of  
completion for the project. Sufficient controlling monuments shall be  
retained or replace in their original positions to enable property, right -of-way  
and easement lines, property corners, and subdivision and tract boundaries  
to be reestablished without devious surveys necessarily originating on  
monuments differing from those that currently control the area.

- 1 E. The Developer will be required to repair any damage caused to County roads by  
2 construction traffic during construction and maintain them in safe conditions.
- 3 F. All off-site improvements within Imperial County right-of-way shall be financially  
4 secured by either a road improvement bond or letter of credit prior to issuance  
5 of a grading permit, building permit, and encroachment permit.
- 6 G. Prior to the issuance of grading and building permits, the Developer shall  
7 complete the installation of temporary stabilized construction entrances and  
8 secondary emergency access driveways.
- 9 H. Prior to issuance of final certificate of occupancy, the Developer shall be  
10 responsible for repairing any damage caused to County roads and bridges  
11 during construction as determined by the Imperial County Road Commissioner.
- 12 I. The Developer shall furnish a Drainage and Grading Plan/Study to provide for  
13 property grading and drainage control, which shall also include prevention of  
14 sedimentation of damage to off-site properties. The Study/Plan shall be  
15 submitted to the Department of Public Works for review and approval. The  
16 Developer shall implement the approved plan. Employment of the appropriate  
17 Best Management Practices (BMP's) shall be included.
- 18 J. Any permanent structures shall be located outside of the ultimate County Right-  
19 of Way.
- 20 K. Off-site improvement shall be constructed in compliance with the material  
21 specifications, horizontal/vertical alignments and notes of engineered approve  
22 project plans and shall conform to County of Imperial Department of Public  
23 works Engineering Design Guidelines Manual.
- 24 L. On-site read shall be constructed on compacted Class II Aggregate Base.
- 25 M. Primary and secondary emergency access driveways from paved roads shall be  
26 constructed of Asphalt Concrete Pavement. Primary and secondary emergency  
27 access driveways from unpaved roads shall be constructed of Class II  
28 Aggregate Base.
- 29 N. The Developer shall prepare and submit a haul route study for the proposed  
30 construction haul route to evaluate any impacts to County roads. Said study  
31 shall be submitted to this Department for review and approval. The haul route  
32 study shall include pictures and/or other documents to verify the existing  
33 conditions of the impacted County roads before construction begins. The haul  
34 route study shall also include recommended mitigation improvements to  
35 impacted County roads along with any fair share costs for such improvements.

1 O. The Developer shall enter into a Roadway Maintenance Agreement with the  
2 County of Imperial prior to issuance of a Certificate of Occupancy. The  
3 Developer shall provide financial security to maintain the roads on the approved  
haul route study during construction.

4 **INFORMATIVE:**

5 The following items are for informational purposes only. The Developer is responsible to  
6 determine if the enclosed items affect the subject project.

- 7 • All solid and hazardous waste shall be disposed of in approved solid waste  
8 disposal sites in accordance with existing County, State and Federal  
regulations (Per Imperial County Code of Ordinances, Chapter 8.72).
- 9 • All on-site traffic areas shall be hard surfaced to provide all weather access  
10 for emergency vehicles.
- 11 • The project may require a National Pollutant Discharge Elimination System  
12 (NPDES) permit and Notice of Intent (NOI) from the Regional Water Quality  
13 control Board (RWQCB) prior to County approval of onsite grading permit  
(40 CFR 122.28).
- 14 • A Transportation Permit may be required from road agency(s) having  
15 jurisdiction over the haul route(s) for any hauls of heavy equipment and/or  
16 large vehicles which impose greater than legal loads on riding surfaces,  
including bridges. (Per Imperial County Code of Ordinances, Chapter 10.12-  
Overweight Vehicles and Loads.
- 17 • As this project proceeds through the planning and the approval process,  
18 additional comments and/or requirements may apply as more information is  
19 received.

20 **S-23 WASTE DISPOSAL**

21 The Permittee shall insure that all solar plant facilities waste, liquid, gas or  
22 solid, which are generated on-site shall be disposed of in compliance with  
23 appropriate local, state, and federal regulations, in effect or as subsequently duly-  
24 enacted. All solid waste debris and/or any hazardous wastes located on the Project  
site must be satisfactorily removed to a permitted facility prior to the  
commencement of grading earthen material at the site.

- 25 1. Littering shall not be allowed. Project personnel shall not deposit or leave  
26 any food or waste in the Project area, and no biodegradable or non-  
27 biodegradable debris shall remain in the right-of-way or on the Project site  
following completion of construction.

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**S-24 CALTRANS**

1. An encroachment permit shall be required for any work performed within Caltrans right-of-way. If required, any traffic control will need to be addressed as part of Caltrans permit approval. Stoppage of traffic for placement of aerial lines, installation or removal of overhead conductors crossing a highway requires traffic control will be addressed in accordance with the Caltrans Standard Plans and the California Manual on Uniform Traffic Control Devices (MUTCD).
2. Any work performed within Caltrans right-of-way must provide an approved final environmental document including the California Environmental Quality Act (CEQA) determination addressing any environmental impacts within the Caltrans right-of-way and any corresponding technical studies, if required. If these materials are not included with the encroachment permit application, the Permittee will be required to acquire and provide these to Caltrans before the permit application will be accepted. Identification of avoidance and/or mitigation measures will be a condition of encroachment permit approval as well as procurement of any necessary regulatory and resource agency permits.

**S-25 ACCEPTANCE:**

Acceptance of this permit shall be deemed to constitute agreement by Permittee with all terms and conditions herein contained.

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1  
2 **NOW THEREFORE**, County hereby issues the Conditional Use Permit #18-0040,  
3 and Permittee hereby accepts such permit upon the terms and conditions set forth herein.

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

6  
7 **PERMITTEE -ORNI 33, LLC**

8  
9  
10 \_\_\_\_\_ Date \_\_\_\_\_  
11 ORNI 33, LLC

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

15  
16  
17 \_\_\_\_\_ Date \_\_\_\_\_  
18 James Minnick, Director  
19 Planning & Development Services  
20 Department



1 **PERMITTEE NOTARIZATION**

2 A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document  
3 to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

4 Dated \_\_\_\_\_

5 STATE OF CALIFORNIA

6 COUNTY OF \_\_\_\_\_ } S.S.

7 On \_\_\_\_\_ before me,  
8 \_\_\_\_\_ a Notary Public in and for  
9 said County and State, personally appeared

10 \_\_\_\_\_, who proved to me on the  
11 basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the  
12 within instrument and acknowledged to me that he/she/they executed the same in  
13 his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the  
14 instrument the person(s), or the entity upon behalf of which the person(s) acted, executed  
15 the instrument.

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

15 WITNESS my hand and official seal

16 Signature \_\_\_\_\_

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

19 Title or Type of Document \_\_\_\_\_

20 Number of Pages \_\_\_\_\_ Date of Document \_\_\_\_\_

21 Signer(s) Other Than Named Above \_\_\_\_\_

22 Dated \_\_\_\_\_

1 **COUNTY NOTARIZATION**

2 A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document  
3 to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

4 STATE OF CALIFORNIA

5 COUNTY OF IMPERIAL } S.S.

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

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

14 WITNESS my hand and official seal

15 Signature \_\_\_\_\_

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

19 Title or Type of Document \_\_\_\_\_  
20 Number of Pages \_\_\_\_\_ Date of Document \_\_\_\_\_  
21 Signer(s) Other Than Named Above \_\_\_\_\_