

**ATTACHMENT I**

**RESOLUTION NO.**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF  
THE COUNTY OF IMPERIAL, CALIFORNIA, APPROVAL  
OF VARIANCE 19-0003 FOR THE WISTER SOLAR  
ENERGY FACILITY PROJECT**

**WHEREAS**, a Variance 19-0003 has been prepared in accordance with the requirements of the State Planning and Zoning Law, California Environmental Quality Act, the State CEQA Guideline, the County's "Rules and Regulations to Implement CEQA, and the County's Land Use Ordinance, Title 9 as amended; and

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

**WHEREAS**, public notice of the public hearing for said application has been given, and the Board of Supervisors has considered evidence presented by the Imperial County Planning & Development Services Department, the Planning Commission determination at a public hearing on November 19, 2020 other interested parties at a public hearing held with respect to this item on January \_\_, 2021.

**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 Variance 19-0003 prior to approve the proposed Variance. The Board of Supervisors finds and determines that the Variance is adequate and prepared in accordance with the requirements of the State Planning and Zoning Law, the County's Land Use Ordinance, Title 9 as amended, and the California Environmental Quality Act (CEQA) which analyzes environmental effects, based upon the following findings and determinations.

**SECTION 2.** That in accordance with State Planning and Zoning law; the County's Land Use Ordinance, Title 9 as amended; and the County of Imperial regulations, the following findings for the approval and certification of the Variance 19-0003 and Findings has been made as follows:

1. That there are special circumstances applicable to the property described in the application filed for such variance, or to its intended use, that do not apply generally to the property or class of use in the same zone or vicinity. (Imperial County Code§ 90202.08 A. (1)

The 70 foot height of the gen-tie structures and or transmission lines is a small, but necessary increase for several reasons considering the uniqueness and special circumstances of the site, thus, the Project site is subject to special circumstances that do not apply generally to the agricultural property in the same vicinity because

the Wister Solar Energy Facility project, unlike most industrial operations, requires the construction of tall gen-tie structures to facilitate the transmission of this generated electricity to the Niland Substation transmission structures. A proposed gen-tie with a height limit not to exceed 70 feet will be needed to carry this generated electricity from the project area to the Niland Substation.

The applicant ORNI 33, LLC submitted a Variance application to address the gen-tie structures that may exceed the S-2 Open Space/Preservation of 40 feet. This Variance 19-0003 would permit a maximum height of 70 feet for the required gen-tie transmission lines.

2. **That the granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or vicinity in which the property is located. County Code§ 90202.08 A (2)**

The proposed project was presented and discussed at the County's Airport Land Use Commission (ALUC) Meeting held June 17, 2020. The ALUC reviewed the proposed application, including the variance for transmission tower height described in subsection 2.1, of the Draft Environmental Impact Report (DEIR). The Commission found the proposed project consistent with the 1996 Airport Land Use Compatibility Plan (ALUCP) with no conditions. An Environmental Impact Report SCH 2019110140 was completed with mitigation measures that reduced all significant impacts in the project area to a less than significant level of impact.

The Project's CUP imposes a condition to follow all applicable local, state and federal laws many of which are designed to protect public welfare, safety or impacts to other lands, including but not limited to the County's Right to Farm Ordinance and nuisance laws assuring the continued operation of any neighboring agricultural uses.

Moreover, the 70-foot gen-tie/transmission towers are not materially detrimental to the public welfare or injurious to the property or improvements in the vicinity because the Project would share use of (by linking into) existing gen-tie structures that would allow the Project to otherwise avoid constructing a parallel set of transmission towers were necessary.

Finally, the height variance is necessary in order to construct 70-foot gen-tie/transmission structures that can safely span the transmission lines over long distances and comply with minimum construction and safety requirements for building gen-tie lines per state and Imperial Irrigation Districts regulations. Specifically, by increasing the height of the gen-tie structures, the safety of the Project is enhanced because the additional height creates more clearance between the shorter existing utility lines as well as water facilities maintained by the Imperial Irrigation District.

3. **That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of the zoning laws is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classifications. County Code§ 90202.08 A (3)**

The construction and operation of the Wister Solar Energy Facility project requires the transmission of the electricity to the ISEC Substation located south southwest of project area. A gen-tie with a height limit not to exceed 70 feet will be needed to carry this electricity across the project area to the Substation. This photovoltaic solar energy facility is located on flat ground with elevation levels consistently below sea level. Due to the scope of the project size and the generation up to 20MW of electricity, the gen-tie transmission line will need to be constructed up to 70 feet above the ground level.

The Project site is subject to special circumstances including size, shape, topography or surroundings, such that the strict application of the height restriction in the County's applicable agricultural zones would deprive the property of privileges enjoyed by other solar generation properties in the vicinity and in the same agricultural zoning classifications. There are several special circumstances that require tall gen-tie structures to accommodate the long-range energy transmission lines that would extend from the Project's solar fields in the south to the existing 92-kV line structures to the south.

**4. That the granting of such variance will not adversely affect the comprehensive General Plan.**

The Imperial County General Plan and Land Use Ordinance Division 2: Land Use Permits (Variance) is defined in § 90202.01 as an approval granted upon a legal parcel of land to construct a structure not otherwise directly allowed by the exact interpretation of Title 9, Division 1 through 8. A variance runs with the land and allows for minimal deviation from the standards. The project zoning of S-2 allows for maximum height of 40 feet above ground. The Variance 19-0003 will allow for a minimal deviation of height of 70- feet above ground level. This extension above current S-2 height limits is a minimal and necessary deviation.

Additionally, the variance will not adversely affect the comprehensive General Plan because it facilitates the development of a project that is consistent with the General Plan for the reasons identified in the Wister Solar Energy Facility Solar Farm EIR and the General Plan Consistency finding of the CUP approval resolution, which are incorporated herein by reference

**NOW, THEREFORE**, based on the above findings, the Board of Supervisors of the County of Imperial **DOES HEREBY APPROVE** the proposed Variance 19-0003 for the Wister Solar Energy Facility Project.

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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

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