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**CALIFORNIA ENVIRONMENTAL QUALITY ACT  
FINDINGS  
(PUBLIC RESOURCE CODE SECTION 21081, CEQA GUIDELINES SECTION 15091)  
FOR THE  
FINAL ENVIRONMENTAL IMPACT REPORT  
DREW SOLAR PROJECT  
(SCH NO. 2018051036)**

**1.0 INTRODUCTION**

The following Findings are made for the Environmental Impact Report (EIR) for the proposed Drew Solar Project (the "Project"). The EIR analyzed the significant and potentially significant environmental impacts which may occur as a result of the Project.

Drew Solar, LLC (hereafter referred to as "Applicant") is proposing to build, operate, and maintain a solar generation and energy storage facility capable of producing approximately 100 mega-watts (MWs) of electricity on six parcels totaling approximately 762.8 net acres. The six parcels (APNs 052-170-039-000, 052-170-067-000, 052-170-031-000, 052-170-032-000, 052-170-056-000, and 052-170-037-000) comprising the Project site are located approximately 6.5 miles southwest of the City of El Centro, California and 7.5 miles directly west of the City of Calexico, California. The Project site is generally located south of Kubler Road, east of the Westside Main Canal, north of SR 98, and west of Pulliam Road. The geographic center of the Project roughly corresponds with 32° 41' 13" North and 115° 40' 8" West, at an elevation of 19 feet below sea level.

The Imperial County Planning and Development (ICPDS) Department received the following applications submitted by the Applicant dated December 29, 2017, January 9, 2018, July 5, 2018, July 31, 2018, August 28, 2018, and January 22, 2019.

- Amendment (GPA#17-0006) to the Imperial County General Plan for amendment of the Renewable Energy & Transmission Element to create an Island Overlay for the Project Site;
- Zone Change (ZC#17-0007) to add the RE Overlay Zone to the Project Site;
- Parcel Map (PM#02478) to fix the existing inconsistency with the legal and physical boundary of the SW ¼ Section of the Project Site (APNs: 052-170-039-000 and 052-170-067-000), including APN 052-170-030 to the north of the Project Site as part of the Parcel Map;
- Five CUPs (CUP#17-0031, CUP#17-0032, CUP#17-0033, CUP#17-0034 and CUP#17-0035) to develop solar energy generating systems including potential energy storage on lands zoned A-2, A-2-R, and A-3 per Title 9, Division 5: Zoning Areas Established, Chapter 8, Sections 90508.02 and 90509.02;
- One CUP (CUP#18-0001) to develop energy storage as a component of solar on lands zoned A-2 and A-3 per Title 9, Division 5: Zoning Areas Established, Chapter 8, Sections 90508.02 and 90509.02 (A-2 & A-3). Said energy storage would be removed at the time of removal of associated solar facility;
- Variance (V#17-0003) for power pole structures that are over 120 feet in height in the Project Area including the existing Drew Switchyard. With approval of the Variance, the proposed structures could be up to 180 feet in height; and

- Up to five Lot Tie Agreements to hold some or all of the parcels that are part of the Project together as a single parcel in order to reduce/eliminate the setbacks for interior property lines of parcels that are part of the Project and adjacent to one another.
- A Development Agreement between the County and the Applicant to enable and control a phased build-out of the Project that is capable of meeting changing market demands by authorizing initiation of the CUP or CUPs anytime within a 10-year period. Pursuant to the terms of the Development Agreement, the CUPS may have up to a total permitted term of forty (40) years. The Development Agreement shall provide up to ten (10) years for the Conditional Use Permit to commence operations or commence construction. Upon commencement the CUP shall have the remainder of any time left under the 10-year Development Agreement, plus an additional thirty (30) year term.
- A Water Supply Assessment as required by Senate Bill 610 demonstrating whether project water supplies will be sufficient to satisfy the demands of the project, in addition to existing and planned future uses.

The Project will use PV technology to convert sunlight directly into direct current (DC) electricity. The process starts with photovoltaic cells that make up photovoltaic modules (environmentally sealed collections of photovoltaic cells). PV modules are generally non-reflective. Groups of photovoltaic modules are wired together to form a PV array. The DC produced by the array is collected at inverters (power conversion devices) where the DC is converted to alternating current (AC). The voltage of the electricity is increased by a transformer at each power conversion station to a medium voltage level (typically 34.5 kilovolts (kV)). Medium voltage electric lines (underground and/or overhead) are used to collect the electricity from each medium voltage transformer and transmit it to the facility substation(s), where the voltage is further increased by a high voltage transformer to match the electric grid for export to the point of interconnection at the Drew Road Switchyard. Disconnect switches, fuses, circuit breakers, and other miscellaneous equipment will be installed throughout the system for electrical protection and operations and maintenance purposes.

### **1.1 PURPOSE OF CEQA FINDINGS/TERMINOLOGY**

CEQA Findings play an important role in the consideration of projects for which an EIR is prepared. Under Public Resources Code (PRC) Section 21081 and California Environmental Quality Act (CEQA) Guidelines Section 15091, where a Final EIR identifies one or more significant environmental effects, a project may not be approved until the public agency makes written findings supported by substantial evidence in the administrative record regarding each of the significant effects. In turn, the three possible findings specified in CEQA Guidelines Section 15091(a) are:

1. Changes or alterations have been required in, or incorporated into, the project, which avoid or substantially lessen the significant environmental effect as identified in the Final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the Mitigation Measures or project alternatives identified in the Final EIR.

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

1. The project approved will not have a significant effect on the environment; or
2. The agency has:
  - A. Eliminated or substantially lessened all significant effects where feasible as shown in the findings under Section 15091, and;
  - B. Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091 are acceptable due to overriding concerns as described in Section 15093.

**1.2 ENVIRONMENTAL IMPACT REPORT PROCESS**

After the County reviewed the application for the proposed Project, it concluded that the Project could have a significant impact on the environment and that preparation of an environmental impact report was determined to be the appropriate CEQA environmental document. The County issued a Notice of Preparation (NOP) on May 17, 2018. The NOP was distributed to city, county, and state and federal agencies, other public agencies, and various interested private organizations and individuals. Eight letters were received in response to the NOP from various agencies and individuals. A public scoping meeting was held on May 24, 2018 at 6 p.m. at the Board of Supervisors meeting room. No members of the public attended the meeting and no comments were received. A copy of the NOP and written comments received in response to the NOP are included in Appendix A of the Draft EIR.

Based upon comments the County received in response to the NOP, it was determined that the Draft EIR should analyze project-related environmental impacts relative to the following fourteen substantive potential impact areas:

- Aesthetics
- Land Use
- Transportation
- Air Quality
- Greenhouse Gases
- Geology and Soils
- Cultural Resources & Tribal Cultural Resources
- Noise
- Agricultural Resources
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Biological Resources
- Public Services and Utilities
- Energy

Additionally, the Draft EIR included other CEQA substantive sections including an Executive Summary, Introduction, Project Description, Alternatives and Other CEQA Considerations.

**2.0 PROJECT DESCRIPTION**

The Project is a proposal to build an approximately 100-MW AC solar generation facility using photovoltaic (PV) technology on approximately 855 gross and 762.8 net farmable acres. The ultimate energy output of the facility is dependent on several variables including off-take arrangements and the evolving efficiency of PV panels, so it is possible that the Project could generate more or less than 100 MW.

The entire Project is located on land owned by the Imperial Irrigation District (IID). The Project’s two generation interconnection (Gen-Tie) transmission lines are proposed to extend south across Drew Road and State Route (SR) 98 from the south end of the Project site in order to connect to the existing Drew Switchyard located on APN 052-190-039.

The Project may be constructed at one time over approximately 18 months or it may be built out over an approximately 10-year period. The Applicant is requesting that a Conditional Use Permit (CUP) be

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issued for each of the five phases of the Project as well as an additional sixth CUP for Phase 5 for energy storage in the southwestern portion of the Project. Phasing the Project grants utilities greater flexibility in obtaining renewable energy to meet ratepayer needs by allowing utilities to procure smaller energy quantities phased over time.

The Applicant has filed an application for a General Plan Amendment (GPA) for amendment of the Renewable Energy & Transmission Element to add the Project site to the RE Overlay Zone as an Island Overlay for the Project site; a Zone Change to add the RE Overlay to the Project site, a Variance and six CUPs and a Parcel Map. Each of the six CUPs may include an Operations and Maintenance (O&M) building or buildings. The Project may also include additional auxiliary facilities such as raw water/fire water storage, treated water storage, evaporation ponds, storm water retention basins, water filtration buildings and equipment, and equipment control buildings, septic system(s) and parking. The Project will also include electric and vehicular crossings of State facilities, IID facilities and County facilities. The Project crossings will not interfere with the purpose of these Agencies' facilities (e.g., where a drain flows, the Project crossing will still allow the drain to flow). Each phase of the Project may have its own energy storage component as well as energy storage being housed within the inverters.

## **2.1 PROJECT PURPOSE**

Demand for new forms of renewable electric energy continues to grow based on three factors. First, total electricity demand continues to grow as a result of population growth, economic growth and new applications offset only, in part, by energy efficiency programs. The 2010 United States Energy Information Administration (EIA) Annual Energy Outlook ("reference case") forecast is for a 30 percent increase in total demand (from 3,873 billion kilowatt hours to 5,021 billion kilowatt hours, annually), between the years 2008 and 2035. Second, new generation facilities are required to not only meet this demand, but to replace the output of aging generation facilities which are to be retired during this period. Third, driven by federal incentives, regional greenhouse gas (GHG) reduction targets, state renewable energy portfolio standards (RPS) requirements, and potential legislation, an increasingly greater portion of new generation will need to be supplied in the form of renewable energy. The EIA forecast for the period from 2008 to 2035 is for 41 percent of growth in generation to come from non-hydro renewables.

The national trend in renewable energy is particularly evident in the West, the fastest growing region in the United States. Many Western states have adopted renewable energy standards and GHG reduction goals. California is a national leader in requiring a significant proportion of electricity to come from renewable sources. The 2010 requirement that 20 percent of electricity sales come from renewable energy was increased to 33 percent by 2020. With California's 33 percent mandate, combined with other mandated RPS requirements and regional sales growth, the total renewable energy sales for the United States portion of the Western Electricity Coordinating Council region has been estimated at close to 150,000 Gigawatt hours (GWh) by 2020 (not including Idaho, Utah and Wyoming). The proposed Project will help California meet its statutory and regulatory goals for increasing renewable power generation and use.

The Gen-Tie lines component of the proposed Project would provide the needed transmission capacity to connect the CUPs of the Drew Solar Project with the Drew Switchyard. Both gen-tie lines may be underground or one may be underground and one above-ground.

The Drew Solar Project qualifies as an Eligible Renewable Energy Resource as defined by the California Public Utilities Code and would assist the state in meeting current and planned goals for renewable energy development and use. The California Energy Commission (CEC) pre-certified the Drew Solar

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Project as an eligible renewable energy resource under the RPS and assigned it CEC-RPS identification (ID) number 63896.

## **2.2 OBJECTIVES**

Pursuant to CEQA Section 15124(d), objectives have been identified for the proposed Project. A primary objective is to develop a project that will produce public benefits for Imperial County, the Southern California Region, and the State of California. The following is a list of key public benefits that are fundamental to the Project's objectives:

- To create significant lease revenue for Imperial Irrigation District ("IID") as the property owner, a public agency, which will benefit the citizens of Imperial County.
- To support the Imperial County General Plan renewable energy policies and objectives.
- To locate the Project at a location along the existing transmission system which has available capacity to deliver electricity to major load centers in California.
- To meet the terms and requirements of any Power Purchase Agreement (PPA) and Large Generator Interconnection Agreement ("LGIA") that the Applicant has or may enter into and that require it to be interconnected directly to the CAISO grid at the existing Drew Switchyard.
- To deploy a technology that is safe, readily available, efficient, and environmentally responsible.
- To generate power, and store energy in an efficient manner and at a cost that is competitive in the renewable market on sites controlled by the applicant.
- To provide an additional source of renewable energy to assist the State of California in achieving and exceeding the RPS.
- To maximize local construction jobs for a variety of trades thereby helping maximize the reduction of unemployment in the construction sector.
- To locate the Project in an area that ranks among the highest in solar resource potential in the nation, as measured by the CEC.
- To minimize potential impacts to aesthetics, health and safety and other potential environmental impacts:
  - o Locating the Project on disturbed land.
  - o Grouping or collocating the Project's proposed electrical interconnection facilities with existing or proposed electrical interconnection facilities (consistent with County conditions on similar solar generation projects), to the extent that such grouping/collocation can be accommodated.
  - o Utilizing existing infrastructure (switchyards, transmission lines, roads, and water sources) where feasible to locate the project proximate to existing electric interconnection and transmission systems in Imperial County with capacity to deliver electricity to major load centers in California.
- To diversify Imperial County's economic base.
- To provide tax revenue through sales, use and property taxes generated by development within Imperial County.

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## **2.3 DISCRETIONARY ACTIONS/APPROVALS BY THE COUNTY OF IMPERIAL**

In conformance with Sections 15050 and 15367 of the CEQA Guidelines, the County of Imperial has been designated the "lead agency," defined as, "the public agency which has the principal responsibility for carrying out or approving a project." Discretionary actions and approvals by the Imperial County Planning Commission and/or Board of Supervisors for the proposed Project or its alternative(s) may include, but are not limited to:

### **Certification of the Final EIR**

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

### **Findings**

Following certification of the EIR, the Board of Supervisors would consider approval of the Findings pursuant to CEQA Guidelines Section 15091.

### **Mitigation Monitoring and Reporting Program**

A Mitigation Monitoring and Reporting Program (MMRP) will be adopted as required by CEQA Guidelines Section 15097 to ensure that mitigation measures identified in the EIR are implemented as appropriate.

### **General Plan Amendment**

The proposed Project will require approval of a General Plan Amendment (GPA) (17-0006) to the Imperial County General Plan for amendment of the Renewable Energy & Transmission Element to create an Island Overlay for the Project Site. Creation of an "Island Overlay" is permissible via an amendment to the RE Overlay Zone to allow for development of a future renewable energy project that is located adjacent to or within one quarter (1/4) mile of an existing operating solar facility. Three conditions must be met to allow for the amendment: the project must be located adjacent (sharing a common boundary) to an existing transmission source; the project is adjacent to or within one-quarter (1/4) of a mile of an existing operating solar facility; and the project would not result in any significant environmental impacts. The Project shares a common boundary to an existing transmission source (i.e. the existing Drew Switchyard) and is adjacent to the existing Centinela Solar Project. No significant impacts that cannot be mitigated would occur as a result of implementing the Project.

### **Zone Change**

Zone Change (ZC#17-0007) to add the RE Overlay Zone to the Project site.

### **Parcel Map**

The Project is processing a Parcel Map (PM#02478) to fix the existing inconsistency with the legal and physical boundary of the SW ¼ Section of the Project site (APNs: 052-170-039 and 052-170-067), including APN 052-170-030 to the north of the Project site as part of the Parcel Map. In doing so the net farmable acreage of the Project site will remain the same (762.8 net acres), and the gross acreage will increase from 844.2 gross acres to approximately 855 gross acres once the Parcel Map is recorded.

### **Conditional Use Permits**

The proposed Project will require a total of six CUPs (CUP#17-0031, CUP#17-0032, CUP#17-0033, CUP#17-0034, CUP#17-0035 and CUP#18-0001). Five CUPs will be required to develop solar energy generating systems including potential energy storage on lands zoned A-2, A-2-R, and A-3 per Title 9,

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Division 5: Zoning Areas Established, Chapter 8, Section 90508.02 and 90509.02; and one CUP (CUP#18-0001) to develop energy storage as a component of solar on lands currently zoned A-2 and A-3, per Title 9, Division 5: Zoning Areas Established, Chapter 8, Sections 90508.02 and 90509.02 (A-2 and A-3).

### **Variance**

Variance (V#17-0003) for the entire proposed Project Area, including the existing Drew Switchyard, and for power pole structures that are over 120 feet in height. With approval of the Variance, the proposed structures could be up to 180 feet in height.

### **Lot Tie Agreements**

Lot Tie Agreement(s) to hold some or all of the parcels that are part of the Project together as a single parcel in order to reduce/eliminate the setbacks for interior property lines of parcels that are part of the Project and adjacent to one another.

### **Development Agreement**

The Project is processing a Development Agreement with Imperial County to enable and control a phased build-out of the Project that is capable of meeting changing market demands by authorizing initiation of the CUP or CUPS anytime within a 10-year period. Pursuant to the terms of the Development Agreement, the CUPS may have up to a total permitted term of forty (40) years. The Development Agreement shall provide up to ten (10) years for the Conditional Use Permit to commence operations or commence construction. Upon commencement the CUP shall have the remainder of any time left under the 10-year Development Agreement, plus an additional thirty (30) year term.

### **Water Supply Assessment**

A Water Supply Assessment has been prepared as required by Senate Bill 610 demonstrating whether project water supplies will be sufficient to satisfy the demands of the project, in addition to existing and planned future uses.”

## **3.0 PROJECT LOCATION**

The proposed Project site is located on six parcels (APNs 052-170-039-000, 052-170-067-000, 052-170-031-000, 052-170-032-000, 052-170-056-000, and 052-170-037-000) located approximately 6.5 miles southwest of the City of El Centro, California and 7.5 miles directly west of the City of Calexico, California. The Project site is generally located

south of Kubler Road, east of the Westside Main Canal, north of SR 98, and west of Pulliam Road. The geographic center of the Project roughly corresponds with 32° 41' 13" North and 115° 40' 8" West, at an elevation of 19 feet below sea level.

## **4.0 ISSUES ADDRESSED IN THE EIR**

The EIR contains an environmental analysis of the potential impacts associated with implementing the Project. These issues include aesthetics; land use; transportation; air quality; greenhouse gases; geology and soils; cultural resources and tribal cultural resources; noise; agricultural resources; hazardous and hazardous materials; hydrology and water quality; biological resources; public services and utilities; and energy.

## **5.0 MITIGATION MONITORING & REPORTING PROGRAM**

Pursuant to Public Resources Code (PRC) Section 21081.6, the County has adopted a detailed mitigation monitoring and reporting program prepared under the County's direction. The program is designed to ensure that all Mitigation Measures and Conditions of Approval as hereafter required are in fact implemented on a timely basis as the Project is implemented.

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## 6.0 RECORD OF PROCEEDINGS

For all purposes of CEQA compliance, including these Findings, the administrative record of all County proceedings and decisions regarding the environmental analysis of the Project include but are not limited to:

- The Draft and Final EIR for the Project, together with all appendices and technical reports referred to therein, whether separately bound or not, or on a CD;
- All reports, letters, applications, memoranda, maps or other planning and engineering documents prepared by the County, its planning consultant and environmental consultant, the Applicant or others and presented to or before the decision-makers or staff;
- All minutes of any public workshops, meetings or hearings, and any recorded or verbatim transcripts or videotapes thereof;
- Any letters, reports or other documents or evidence submitted into the record at any public workshops, meetings or hearings; and
- Matters of common general knowledge to the County which it may consider, including applicable state or local laws, ordinances and policies, the General Plan and all applicable planning programs and policies of the County.

Documents or other materials that constitute the record of proceedings upon which these Findings are made are located at the Department of Planning and Development Services of the County of Imperial, 801 Main Street, El Centro, CA 92243.

## 7.0 FINDINGS OF POTENTIALLY SIGNIFICANT IMPACTS, REQUIRED MITIGATION MEASURES AND SUPPORTING FACTS

The Imperial County Board of Supervisors, having reviewed and considered the information contained in the Draft EIR, and in the administrative record before it, finds pursuant PRC Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1) that changes or alterations have been required in, or incorporated into, the Project which would mitigate, avoid, or substantially lessen to below a level of significance the following potential significant environmental effects identified in the Draft EIR. The County further finds that all of the mitigation measures adopted in the Mitigation Monitoring and Reporting Program (MMRP) are feasible.

### 7.1 TRANSPORTATION

#### 7.1.1 IMPACT 4.3.5 - INCREASE HAZARDS DUE TO A GEOMETRIC DESIGN FEATURE – DAMAGE TO COUNTY-MAINTAINED ROADWAYS DURING PROJECT CONSTRUCTION

- A. Potential Impact.** Construction of the proposed Project will require movement of heavy equipment and large vehicles on County roadways not designed to accommodate high volumes of overweight trucks and loads. The condition of the roadways may deteriorate rapidly based on the volume and weight of construction traffic. Therefore, impacts to County-maintained roadways are considered **potentially significant** under both the Full Build-Out Scenario and Phased CUP Scenario.
- B. Facts in Support of Finding.** Damage to County-maintained roadways would occur during construction, require repair prior to operation, and would be re-assessed following decommissioning. Once the Project is reclaimed, no damage beyond what is currently occurring in association with existing farming operations is anticipated.



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See Section 4.3 Transportation (pp. 4.3-68 thru 4.3-72) in the Errata of this Final EIR. Implementation of mitigation measure MM 4.3.5a would limit equipment deliveries, employee and vendor traffic to specific routes unless improvements are made to other County Roads prior to development of each CUP. Mitigation measure MM 4.3.5b requires that the Project's construction traffic use paved roads and avoid unpaved County roadways. If public unpaved roads are used for construction, then mitigation measure MM 4.3.5b will stipulate the mitigation utilizing acceptable best management practices in accordance with Imperial County Air Pollution Control District (ICAPCD) Rule 805. Furthermore, if the Applicant's vehicles per day (VPD) increase beyond a cumulative total of 50 trips per day, the Applicant will be responsible for the cost of future maintenance of impacted public unpaved roadways. Mitigation measure MM 4.3.5c requires the Applicant to improve roads to each CUP. Mitigation measure MM 4.3.5d applies to all CUPs (CUP#17-0031 thru CUP#17-0035 and CUP#18-0001) and requires fair share payments for County roads used during construction as determined by the Imperial County Public Works Department/Road Commissioner. Mitigation measure MM 4.3.5e requires Fair share payments shall be paid per the approved haul route study, as approved by Imperial County Public Works Department prior to issuance of grading, building and encroachment permits for CUP#17-0031, CUP#17-0032, CUP#17-0033, CUP#17-0034, CUP#17-0035 and CUP#18-0001. Mitigation measure MM 4.3.5f requires the owners of CUP#17-0031, CUP#17-0032, CUP#17-0033, CUP#17-0034, CUP#17-0035 and CUP#18-0001 to repair any damaged caused to County roads and bridges. Mitigation measure MM 4.3.5g requires the owner of CUP #17-0031 to pay fair share payments for future road maintenance of at least one-half mile of road improvements along Drew Road from SR 98 to the Mount Signal Drain No. 1. Mitigation measure MM 4.3.5h requires the owner of CUP #17-0032 to pay fair share payments for future road maintenance of at least one-half mile of road improvements along Pulliam Road from SR 98 to the Carr Drain. Mitigation measure MM 4.3.5i requires the owner of CUP #17-0033 to pay fair share payments for future road maintenance of at least one-half mile of road improvements along Pulliam Road from Carr Drain to Kubler Road. Mitigation measure MM 4.3.5j requires the owner of CUP #17-0034 to pay fair share payments for future road maintenance of at least one-half mile of road improvements along Drew Road from Mount Signal Drain No. 1 to Kubler Road. Lastly, mitigation measure MM 4.3.5k requires the owner of CUP#17-0035 and CUP#18-0001 to pay fair share payments for future road maintenance of at least one mile of road improvements along Drew Road from SR 98 up to Kubler Road unless this condition has already been satisfied as part of CUP#17-0031 or CUP#17-0035 With implementation of mitigation measures MM 4.3.5a thru MM 4.3.5k of the Final EIR, the Project's potentially significant impacts associated with damage to County-maintained roadways during construction would be mitigated to below a level of significance.

#### Mitigation Measure MM 4.3.5a

##### **MM 4.3.5a All CUPs (CUP#17-0031 thru CUP#17-0035 and CUP#18-0001)**

Employee and vendor routes to each CUP shall be limited to Drew Road and Pulliam Road unless improvements are made to other county roads leading to individual CUP sites in advance of development of each CUP.

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Mitigation Measure MM 4.3.5b

**MM 4.3.5b All CUPs (CUP#17-0031 thru CUP#17-0035 and CUP#18-0001)**

The CUP owner(s) shall limit the Project's construction traffic to paved County roadways. In the event the Applicant's construction traffic requires the use of unpaved County roadways, the Applicant shall mitigate those County unpaved roadways in accordance with ICAPCD Rule 805.

In addition to complying with Rule 805, if 50 vehicle trips per day (VPD) (cumulative from public and project use) are triggered by the project on any single County unpaved roadway, the Applicant shall provide for the future maintenance cost of the affected roadway for the full term of the CUP which triggered the increase beyond the 50 VPD threshold.

Mitigation Measure MM 4.3.5c

**MM 4.3.5c All CUPs (CUP#17-0031 thru CUP#17-0035 and CUP#18-0001)**

As each CUP may be constructed individually and independently, the CUP owner(s) shall improve the roads per the approved haul route study. If the CUP owner(s) has already improved the roads that will be utilized by the next CUP to start construction, then no new road improvements are required.

Mitigation Measure MM 4.3.5d

**MM 4.3.5d All CUPs (CUP#17-0031 thru CUP#17-0035 and CUP#18-0001)**

Project construction traffic will utilize County roads, therefore a fair share shall be paid per the approved haul route study, and the Developer will be required to repair any damages caused to County roads by construction traffic during construction and maintain them in safe conditions. The Imperial County Public Works Department/Road Commissioner shall have final authority as to the fair share percentage and the final payment amounts based on the final and approved access points in the project's grading and improvement plans. Fair share shall be paid in full prior to issuance of grading, building and encroachment permits.

Mitigation Measure MM 4.3.5e

**MM 4.3.5e CUP#17-0031, CUP#17-0032, CUP#17-0033, CUP#17-0034, CUP#17-0035 and CUP#18-0001**

Fair share payments shall be paid per the approved haul route study, as approved by Imperial County Public Works Department prior to issuance of grading, building and encroachment permits.

Mitigation Measure MM 4.3.5f

**MM 4.3.5f CUP#17-0031, CUP#17-0032, CUP#17-0033, CUP#17-0034, CUP#17-0035 and CUP#18-0001**

Prior to issuance of final Certificate of Occupancy, CUP owner shall be responsible for repairing any damage caused to County roads and bridges it utilizes via improvements as determined by the County Road Commissioner based on the final and approved access points in the Project's grading and improvement plans.

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Mitigation Measure MM 4.3.5g

**MM 4.3.5g CUP#17-0031**

Fair share payments shall be paid for future road maintenance of at least one-half mile of road improvements (calculated to include 100% of shoulder work, grinding 1-inch of asphalt and final 2-inches of overlays) along Drew Road from SR 98 to the Mount Signal Drain No. 1 or as approved by ICDPW prior to issuance of the first grading permit based on the final and approved access points in the Project's grading and improvement plans. Final distance of road improvements and unit costs for the fair share shall be determined by the Road Commissioner.

Mitigation Measure MM 4.3.5h

**MM 4.3.5h CUP#17-0032**

Fair share payments shall be paid for future road maintenance of at least one-half mile of road improvements (calculated to include 100% of shoulder work, grinding 1-inch of asphalt and final 2-inches of overlays) along Pulliam Road from SR 98 to the Carr Drain or as approved by ICDPW prior to issuance of the first grading permit based on the final and approved access points in the Project's grading and improvement plans. Final distance of road improvements and unit costs for the fair share shall be determined by the Road Commissioner.

Mitigation Measure MM 4.3.5i

**MM 4.3.5i CUP#17-0033**

Fair share payments shall be paid for future road maintenance of at least one-half mile of road improvements (calculated to include 100% of shoulder work, grinding 1-inch of asphalt and final 2-inches of overlays) along Pulliam Road from Carr Drain to Kubler Road or as approved by ICDPW prior to issuance of the first grading permit based on the final and approved access points in the Project's grading and improvement plans. Final distance of road improvements and unit costs for the fair share shall be determined by the Road Commissioner.

Mitigation Measure MM 4.3.5j

**MM 4.3.5j CUP#17-0034**

Fair share payments shall be paid for future road maintenance of at least one-half mile of road improvements (calculated to include 100% of shoulder work, grinding 1-inch of asphalt and final 2-inches of overlays) along Drew Road from Mount Signal Drain No. 1 to Kubler Road, or as approved by Imperial County Public Works Department prior to issuance of the first grading permit based on the final and approved access points in the Project's grading and improvement plans, unless the condition has already been satisfied as part of CUP#17-0033. Final distance of road improvements and unit costs for the fair share shall be determined by the Road Commissioner.

Mitigation Measure MM 4.3.5k

**MM 4.3.5k CUP#17-0035 and CUP#18-0001**

Fair share payments shall be paid for future road maintenance of at least one mile of road improvements (calculated to include 100% of shoulder work, grinding 1-inch of asphalt and final 2-inches of overlays) along Drew Road from SR 98 up to Kubler Road

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unless condition has already been satisfied as part of CUP 17-0031 or CUP 17-0035 relating to construction haul route, or as approved by Imperial County Public Works Department prior to issuance of the first grading permit based on the final and approved access points in the Project's grading and improvement plans. Final distance of road improvements and unit costs for the fair share shall be determined by the Road Commissioner.

## **7.2 GEOLOGY AND SOILS**

### **7.2.1 IMPACT 4.6.1 – ALQUIST-PRIOLO EARTHQUAKE FAULT RUPTURE**

- A. Potential Impact.** An unnamed fault mapped as an AlquistPriolo Earthquake Fault Zone extends into CUP#17-0035. Surface rupture is considered low to moderate. This is considered a **potentially significant impact**.
- B. Facts in Support of Finding.** The 2017 Alquist-Priolo Earthquake Fault Zone maps depicts an unnamed fault extending in the southwestern portion of the Project site, specifically at CUP#17-0035 and slightly into CUP#18-0001. Geologic mapping of the Imperial Valley by the United States Geological Survey (USGS) following a magnitude 7.2 Mw El Mayor-Cucapah Earthquake also indicates movement along several known and unknown faults west of the Project site. Surface rupture on these faults is possible from future seismic events in the area (see EIR pages 4.6-9 and 4.6-10). Implementation of mitigation measure MM 4.6.1 would require that a Fault Hazard Study be prepared for CUP#17-0035 and CUP#18-0001 to assess the potential for fault rupture and assist with determining the location for an O&M building and suitability for energy storage components. With implementation of mitigation measure MM 4.6.1 of the Final EIR, Alquist-Priolo earthquake fault rupture impacts can be mitigated to below a level of significance.

#### Mitigation Measure MM 4.6.1

- MM 4.6.1** A Fault Hazard Study including fault trenching shall be prepared for CUP#17-0035 and CUP#18-0001 to address any issues associated with the presence of an Alquist-Priolo Earthquake Fault Zone.

### **7.2.2 IMPACT 4.6.2 – STRONG SEISMIC GROUND SHAKING**

- A. Potential Impact.** The Project site is located in a seismically active region and would be subject to strong seismic ground shaking in the event of an earthquake. This is considered a **potentially significant impact**.
- B. Facts in Support of Finding.** The Project site is located in the seismically active Imperial Valley in Southern California and could experience moderate to strong ground motion during earthquakes in the region. The Project site is prone to strong groundshaking during earthquakes along the Superstition Hills, Imperial, Cerro Prieto and Laguna Salada faults (Figure 4.6-1 of the Draft EIR) (LandMark 2017, p. 5). The proposed O&M building(s), PV panels, substations, etc. could be damaged by strong seismic shaking (see EIR pages 4.6-20 and 4.6-21).

Pursuant to the Seismic Hazards Mapping Act, Seismic Regulations and Special Publication 117A, the minimum level of mitigation for a project should reduce the risk of ground failure during an earthquake to a level that does not cause the collapse of buildings for human occupancy, but not to a level of no ground failure at all. Implementation of mitigation measure MM 4.6.2 reduces the risk of ground failure to

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this level for both habitable O&M building(s) as well as the other non-habitable project facilities (e.g., solar panels). Implementation of mitigation measure MM 4.6.2 exposing people or structures to potential substantial adverse effects due to ground failure resulting from strong seismic ground shaking would be avoided through adherence to the appropriate codes and standards of care. With implementation of mitigation measure MM 4.6.2 of the Final EIR, strong seismic ground shaking impacts can be mitigated to below a level of significance.

#### Mitigation Measure MM 4.6.2

**MM 4.6.2** Prior to approval of final building plans, a registered civil engineer or certified engineering geologist, having at least five years of experience in the field of seismic hazard evaluation and mitigation, shall prepare a Final Geotechnical and GeoHazards Report containing site-specific evaluations of the ground shaking hazards affecting the Project, identify the portions of the Project site containing ground shaking hazards, and identify appropriate Project design measures pursuant to the established and proven methodologies (e.g. Special Publication 117A). The Report shall also include site-specific evaluations of potential for liquefaction, expansive soils and corrosive soils for all solar field site parcels, energy storage components and Gen-Tie foundations. The Report shall identify appropriate Project design measures pursuant to the established and proven methodologies set forth in the 2016 CBC. All recommended Project design measures as set forth in the Final Geotechnical and GeoHazards Report shall be incorporated into and reflected on the final design and building plans for each CUP. All recommended Project design measures as set forth in the Final Geotechnical and GeoHazards Report shall be incorporated into and reflected on the final design and building plans. The Final Geotechnical and GeoHazards Report and Project plans shall be submitted for review and approval by the Imperial County Planning and Development Services Department, Division of Building & Safety prior to approval of the final building plans.

#### **7.2.3 IMPACT 4.6.3 – LIQUEFACTION**

- A. Potential Impact.** Soils throughout the solar field site parcels have characteristics prone to liquefaction. Evidence of liquefaction was also noted in the area of the Project site. Therefore, a **potentially significant impact** could occur with regard to liquefaction.
- B. Facts in Support of Finding.** Liquefaction occurs when granular soil below the water table is subjected to vibratory motions, such as produced by earthquakes. With strong ground-shaking, an increase in pore water pressure develops as the soil tends to reduce in volume. If the increase in pore water pressure is sufficient to reduce the vertical effective stress (suspending the soil particles in water), the soil strength decreases and the soil behaves as a liquid (similar to quicksand). Liquefaction can produce excessive settlement, ground rupture, lateral spreading, or failure of shallow bearing foundations. Following the April 4, 2010 magnitude 7.2Mw El Mayor-Cucapah Earthquake, liquefaction settlement and ground fissures were noted along the Westside Main Canal in the area of the Project site. In addition, several liquefaction related failures to the embankment of the Westside Main Canal west of the Project site have been noted. Following the April 4, 2010 magnitude 7.2Mw El Mayor-Cucapah Earthquake, liquefaction settlement and ground fissures were noted along the Westside Main Canal in the area of the Project site. In addition, several liquefaction related failures to the

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embankment of the Westside Main Canal west of the Project site have been noted (see EIR p. 4.6-24 and 4.6-23).

The Project impacts with regard to liquefaction would be mitigated through adherence to design recommendations identified in the Final Geotechnical and GeoHazards Report. With implementation of mitigation measure MM 4.6.2 of the Final EIR, liquefaction impacts can be mitigated to below a level of significance.

#### Mitigation Measure MM 4.6.2

#### **Implement mitigation measure MM 4.6.2.**

#### **7.2.4 IMPACT 4.6.7 - SOIL CORROSIVITY**

**A. Potential Impact.** Soils within the Project Area are known to be corrosive. Steel and concrete structures could be damaged through contact with corrosive soils. This is considered a **potentially significant impact**.

**B. Facts in Support of Findings.** Soil tests revealed chloride concentrations of 85 ppm and 200 ppm at the two test sites. Chloride concentrations higher than 300 ppm are considered high. Sulfite concentrations for the two test sites were relatively low at 200 ppm and 210 ppm. Sulfate concentrations below 1,000 ppm are considered to be the level at which sulfates become a major contributor to soil corrosivity (See EIR p. 4.6-24). The Project's potentially significant impact with regard to exposure to soil corrosivity would be mitigated to below a level of significance with implementation of mitigation measure MM 4.6.6. This measure requires the Project be designed and constructed to protect concrete against corrosion from contact with on-site soils. With implementation of mitigation measure MM 4.6.6 of the Final EIR, soil corrosivity impacts can be mitigated to below a level of significance.

All soils within the ancient lakebed in which the Imperial Valley is formed are moderately to highly corrosive to steel and concrete. These soils present a potential corrosion threat to substations/switchgear where bare steel or concrete is in contact with soil. Corrosive soils are present throughout the Project Area and concrete features of the Project could be damaged as a result of soil chemistry (see EIR pages 4.6-27 and 4.6-28). Implementation of mitigation measure MM 4.6.7a and MM 4.6.7b would ensure that concrete and steel structures coming in contact with corrosive soils are properly protected using Type V Portland Cement and zinc coatings. With implementation of mitigation measure MM 4.6.7a and 4.6.7b of the Final EIR, soil corrosivity impacts can be mitigated to below a level of significance.

#### Mitigation Measure MM 4.6.7a

**MM 4.6.7a** Concrete mixed with high cement contents (6 sacks Type V Portland Cement) and low water-cement ratios (0.45 w/c ratio) shall be used for all concrete structures proposed as part of the Project subject to approval by the County Engineer and Planning Director.

#### Mitigation Measure MM 4.6.7b

**MM 4.6.7b** Zinc coatings (galvanizing) or increased structural sections shall be used to protect all steel posts and to compensate for metal loss due to corrosion subject to approval by the County Engineer and Planning Director.

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#### 4.7.5 IMPACT 4.6.8 - IMPACTS TO PALEONTOLOGICAL RESOURCES

- A. Potential Impact.** The Project Site and surrounding areas are underlain by geologic units comprised of quaternary lake deposits of the ancient Lake Cahuilla. As such, the potential exists for fossils to be impacted during construction. Thus, impacts to paleontological resources are considered **potentially significant** for both the Full Build-out Scenario and the Phased CUP Scenario.
- B. Facts in Support of Finding.** A Paleontological Assessment was not prepared for the Drew Solar Project. However, such an assessment was undertaken for the neighboring Centinela Solar Energy (CSE) Project to the east. Both the proposed Project and the CSE Project are located in the Imperial Valley portion of the Salton Trough physiographic province of Southern California. Likewise, both Projects and the surrounding Imperial Valley are directly underlain by geologic units comprised of quaternary lake deposits of the ancient Lake Cahuilla. Lakebed deposits of ancient Lake Cahuilla have yielded fossil remains from numerous localities in Imperial Valley. These include extensive freshwater shell beds, fish, seeds, pollen, diatoms, foraminifera, sponges, and wood. Lake Cahuilla deposits have also yielded vertebrate fossils, including teeth and bones of birds, horses, bighorn sheep, and reptiles. The oldest sedimentary rocks in the vicinity of the CSE Project included fossil-rich marine mudstones and siltstones of the Imperial Group that formed on the submerged marine portions of the ancestral Colorado River delta (see EIR page 4.6-28 and 4.6-29).

Implementation of mitigation measure MM 4.6.8 would employ paleontological monitoring during excavations or drilling that would be at depths of 10 feet or more. The paleontologist would be empowered to determine the level of monitoring necessary; to halt or divert construction away from large specimens; and to curate fossil specimens. In addition, paleontological monitoring shall be required if decommissioning activities reach a certain depth. With implementation of mitigation measure MM 4.6.8 of the Final EIR, impacts to paleontological resources can be mitigated to below a level of significance.

#### Mitigation Measure MM 4.6.8

- MM 4.6.8** Qualified Paleontological monitor(s) shall be hired to oversee excavations or drilling activities greater than 10 feet in depth. Monitors shall be empowered to temporarily halt or divert equipment to allow removal of abundant or large specimens. Recovered specimens shall be prepared to a point of identification and permanent preservation, including washing of sediments to recover small invertebrates and vertebrates. Fossil specimens shall be curated by accessioning into an established, accredited museum repository with permanent retrievable paleontological storage. A report of findings with an appended itemized inventory of specimens shall be prepared. Submittal of the report and inventory to the Imperial County Planning and Development Services Department, along with confirmation of the curation of recovered specimens into an established, accredited museum repository, shall signify completion of the program to mitigate impacts to paleontological resources.

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## 7.3 CULTURAL RESOURCES

### 7.3.1 IMPACT 4.7.2 - IMPACTS TO UNANTICIPATED ARCHAEOLOGICAL RESOURCES

- A. Potential Impact.** The proposed Solar Field Site Parcels have been farmed since the late 1930's and most are currently in agricultural production. No known archaeological resources were identified during the Records Search or pedestrian survey. However, the potential exists for unanticipated archaeological resources to be discovered during construction. This is considered a potentially significant impact for both the Full Build-out Scenario and the Phased CUP Scenario.
- B. Facts in Support of Finding.** The Phase I cultural resources inventory of the Project Area of Potential Effect (APE) suggests that there is a very low potential for the inadvertent discovery of intact cultural deposits during earth moving activities that will occur within agricultural fields. The fields have been extensively disturbed by decades of agricultural activities (see EIR p. 4.7-31 thru 4.7-32). Mitigation measure MM 4.7.2a requires that a monitor from the Campo Band of Mission Indians and the Colorado River Indian Tribes shall be present as a Native American monitors for initial ground disturbing activities within the boundaries of the Project site. Mitigation measure MM 4.7.2b requires that all construction work occurring within 100 feet of any archaeological find exposed during construction shall be stopped immediately until a qualified archaeologist can evaluate the resource. Mitigation measure MM 4.7.2c requires that avoidance of prehistoric cultural resources when feasible or left in-situ or reburied. With implementation of mitigation measures MM 4.7.2a, MM 4.7.2b and MM 4.7.2c of the Final EIR, impacts to subsurface archaeological resources can be mitigated to below a level of significance.

#### Mitigation Measure MM 4.7.2a

- MM 4.7.2a** A monitor from the Campo Band of Mission Indians and the Colorado River Indian Tribes shall be present as a Native American monitors for initial ground disturbing activities within the boundaries of the Project site. Following initial disturbance, a determination shall be made by the County in accordance with State regulations if continued monitoring is necessary based on the outcome of any discoveries or lack thereof.

#### Mitigation Measure MM 4.7.2b

- MM 4.7.2b** In the event that archaeological resources (sites, features, or artifacts) are exposed during construction activities for the Project, all construction work occurring within 100 feet of the find shall immediately stop until a qualified archaeologist meeting the Secretary of the Interior's Professional Qualification Standards can evaluate the significance of the find and determine whether or not additional study is warranted. If the discovery is clearly not significant (e.g., an isolate) the archaeologist may simply record the find and allow work to continue. If the discovery proves potentially significant under CEQA, additional work such as preparation of an archaeological treatment plan, testing, or data recovery may be warranted.

#### Mitigation Measure MM 4.7.2c

- MM 4.7.2c** All prehistoric cultural resources, including both known and yet-to-be discovered sites, shall be avoided if feasible. If avoidance of the site is not feasible, the resources shall be left in-situ or reburied in a nearby area following consultation with Colorado River Indian Tribes.



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### 7.3.2

#### IMPACT 4.7.3 - IMPACTS TO PREVIOUSLY UNKNOWN SUBSURFACE HUMAN REMAINS

- A. **Potential Impact.** Though unlikely, previously unknown human remains may be present within the Project Site which could be unearthed during construction. This is considered a **potentially significant impact** for both the Full Build-out Scenario and the Phased CUP Scenario.
- B. **Facts in Support of Finding.** There is a possibility that human remains could be present beneath the ground surface of the areas to be disturbed during construction of the various components of the Project. See EIR, p. 4.7-33 and 4.7-34. Mitigation measure MM 4.7.3 requires no further excavation or disturbance of the site or any nearby area in the event that human remains are discovered. The County Coroner and Native American Heritage Commission (NAHC) will be notified as appropriate. With implementation of mitigation measure MM 4.7.3 of the Final EIR, impacts to unknown subsurface human remains can be mitigated to below a level of significance.

#### Mitigation Measure MM 4.7.3

##### MM 4.7.3

In accordance with Section 7050.5 of the California Health and Safety Code, if human remains are found, the County Coroner shall be notified of the discovery immediately. No further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains shall occur until the County Coroner has determined, within 2 working days of notification of the discovery, the appropriate treatment and disposition of the human remains. If the County Coroner determines that the remains are, or are believed to be, Native American, he or she shall notify the NAHC in Sacramento within 24 hours. In accordance with California Public Resources Code Section 5097.98, the NAHC must immediately notify those persons it believes to be the most likely descendent (MLD) from the deceased Native American. The MLD shall complete inspection within 48 hours of being granted access to the site. The designated Native American representative would then determine, in consultation with the property owner, the disposition of the human remains.

In the event that any human remains or objects subject to provision of the Native American Graves Protection and Repatriation Act, or cultural resources such as sites, trails, artifacts are identified during ground disturbance, please contact the Colorado River Indian Tribes' Tribal Historic Preservation Office (CRIT THPO) within 48 hours.

### 7.4

#### AGRICULTURAL RESOURCES

##### 7.4.1

#### IMPACT 4.9.1 - CONVERSION OF PRIME FARMLAND, UNIQUE FARMLAND, OR FARMLAND OF STATEWIDE IMPORTANCE

- A. **Potential Impact.** The proposed Project, whether implemented as the Full Build-out Scenario or six individual CUPs proposed as part of the Phased CUP Scenario, would temporarily convert Prime Farmland and Farmland of Statewide Importance to non-agricultural uses. This is considered a **potentially significant impact**.
- B. **Facts in Support of Finding.** Construction and operation of the proposed Full Build-out Scenario, inclusive of all six CUPs and five phases, would result in the temporary direct conversion of approximately 762.8 acres (48.3 acres of Prime Farmland and 714.5 acres of Farmland of Statewide Importance) of agricultural land currently in crop production to a non-agricultural use. See EIR pp. 4.9-32 thru 4.9-36.

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Implementation of mitigation measures MM 4.9.1a and MM 4.9.1b would reduce the impacts related to temporary loss of Prime Farmland and Farmland of Statewide Importance by assuring it is a temporary impact and compensating for socio-economic impacts associated with the conversion of farmland. The assurance that the impact will be temporary is accomplished through the Permittee's commitment to a reclamation plan and mitigation measure MM 4.9.1b that requires the Permittee restore the site to agricultural use with a soil value equal to the pre-Project condition and back that commitment with financial security. In this case, the Land Evaluation and Site Assessment (LESA) model will be used as the performance standard for determining whether the soil has been restored to pre-Project conditions. The assurance that the Project will compensate for socio-economic impacts associated with the conversion of agricultural lands is accomplished through the commitment of the Permittee to pay agricultural benefit fees and community benefit fees in the Development Agreement.

With implementation of mitigation measure MM 4.9.1a and MM 4.9.1b of the Final EIR, impacts associated with the temporary conversion of farmland, including Prime Farmland and Farmland of Statewide Importance, can be mitigated to below a level of significance.

#### Mitigation Measure MM 4.9.1a

**MM 4.9.1a** Payment of Agricultural and Other Benefit Fees One of the following options included below shall be implemented prior to the issuance of a grading permit or building permit (whichever is issued first) for the proposed Project:

##### **For Non-Prime Farmland:**

- **Option 1:** The Permittee shall procure Agricultural Conservation Easements on a 1 to 1 basis on land of equal size, of equal quality of farmland, outside the path of development. The Conservation Easement shall meet the State Department of Conservation's regulations and shall be recorded prior to issuance of any grading or building permits;
- **Option 2:** The Permittee shall pay an "Agricultural In-Lieu Mitigation Fee" in the amount of 20% of the fair market value per acre for the total acres of proposed site based on five comparable sales of land used for agricultural purposes as of the effective date of the permit, including program costs on a cost recovery/time and material basis. The Agricultural In-Lieu Mitigation Fee, will be placed in a trust account administered by the Imperial County Agricultural Commissioner's office and will be used for such purposes as the acquisition, stewardship, preservation and enhancement of agricultural lands within Imperial County; or
- **Option 3:** The Permittee and County voluntarily enter into an enforceable Public Benefit Agreement or Development Agreement that includes an Agricultural Benefit Fee payment that is (1) consistent with Board Resolution 2012-005; (2) the Agricultural Benefit Fee must be held by the County in a restricted account to be used by the County only for such purposes as the stewardship, preservation and enhancement of agricultural lands within Imperial County and to implement the goals and objectives of the Agricultural Benefit program, as specified the Development Agreement, including addressing the mitigation of agricultural job loss on the local economy.

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**For Prime Farmland:**

- **Option 1:** The Permittee shall procure Agricultural Conservation Easements on a "2 to 1" basis on land of equal size, of equal quality farmland, outside of the path of development. The Conservation Easements shall meet the State Department of Conservation's regulations and shall be recorded prior to issuance of any grading or building permits; or
- **Option 2:** The Permittee shall pay an "Agricultural In-Lieu Mitigation Fee" in the amount of 30 percent of the fair market value per acre for the total acres of the proposed site based on five comparable sales of land used for agricultural purposes as of the effective date of the permit, including program costs on a cost recovery/time and material basis. The Agricultural In-Lieu Mitigation Fee, will be placed in a trust account administered by the Imperial County Agricultural Commissioner's office and will be used for such purposes as the acquisition, stewardship, preservation and enhancement of agricultural lands within Imperial County.
- **Option 3:** The Permittee and County shall enter into an enforceable Public Benefit Agreement or Development Agreement that includes an Agricultural Benefit Fee payment that is (1) consistent with Board Resolution 2012-005; (2) the Agricultural Benefit Fee must be held by the County in a restricted account to be used by the County only for such purposes as the stewardship, preservation and enhancement of agricultural lands within Imperial County and to implement the goals and objectives of the Agricultural Benefit program, as specified the Development Agreement, including addressing the mitigation of agricultural job loss on the local economy; the Project and other recipients of the Project's Agricultural Benefit Fee funds; or emphasis on creation of jobs in the agricultural sector of local economy for the purpose of offsetting jobs displaced by this Project.
- **Option 4:** The Permittee shall revise their CUP Application/Site Plan to avoid Prime Farmland.

**MM 4.9.1b Reclamation/Decommissioning Plan and Security**

Prior to the issuance of a grading permit or building permit (whichever is issued first) for the proposed Project, the Permittee shall submit to Imperial County a Reclamation and Decommissioning Plan. The plan shall document the procedures by which each CUP area will be returned to its current agricultural condition/LESA score of 57.9. The Permittee shall also provide financial assurance/bonding in an amount equal to a cost estimate prepared by a California-licensed general contractor or civil engineer for implementation of the Reclamation Plan in the event Permittee fails to perform the Reclamation Plan.

**7.5 BIOLOGICAL RESOURCES**

**7.5.1 IMPACT 4.12.1- IMPACTS TO SPECIAL STATUS SPECIES (BURROWING OWL)**

- A. Potential Impact.** The Project Area contains suitable habitat for burrowing owl. Several owls were discovered during field surveys of the Project site. Therefore, potential for impacts to special status species is considered **potentially significant** under both the Full Build-out and Phased CUP Scenarios.

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**B. Facts in Support of Finding.** Burrowing owls and active burrow sites were recorded within the Project site during focused surveys conducted in 2017. Potential construction-related direct impacts to burrowing owl could result from unintentional clearing, trampling, or grading outside of the construction zone. Additionally, ground disturbances could potentially result in destruction of burrowing owl dens, destruction of nests, eggs, and young, and entombment of adults. Burrowing owls could be affected by construction-related noise and increased human presence. See EIR p. 4.12-27 thru 4.12-33. Implementation of mitigation measure MM 4.12.1a (general construction-related avoidance and minimization measures) would limit vehicles and construction equipment to identified non-impact areas and would limit ingress and egress to established roads. Mitigation measure MM 4.12.1b (WEAP training, biological monitoring, and compliance) would further ensure no take of, and avoidance of impacts to, burrowing owls. Construction mitigation measure MM 4.12.1c (burrowing owl pre-construction surveys and avoidance/relocation plan) and MM 4.12.1d (nesting bird pre-construction surveys and avoidance plan) would result in identification of any burrowing owls present at the time of construction within areas potentially impacted by the Project, establishment of appropriate buffers, and avoidance/minimization of impacts to burrowing owl. Mitigation Measure MM 4.12.1e requires the Project to implement recommendations by the APLIC to reduce potential for raptors and other birds to be electrocuted. With implementation of mitigation measure MM 4.12.1a, MM 4.12.1b, MM 4.12.1c, MM 4.12.1d and MM 4.12.1e of the Final EIR, impacts to burrowing owls can be mitigated to below a level of significance.

#### Mitigation Measure MM 4.12.1a

##### **MM 4.12.1a General Avoidance and Minimization Measures**

###### Debris/Non-native Vegetation/Pollution

- Fully covered trash receptacles that are animal-proof will be installed and used onsite to contain all food, food scraps, food wrappers, beverage containers, and other miscellaneous trash.
- No litter or debris will be discharged into state-jurisdictional waters.
- Work areas shall be kept clean of debris, such as trash, and construction materials.
- Vehicle and Equipment Restrictions and Maintenance.
- Vehicle operation within jurisdictional resources when surface water is present will be prohibited except as necessary to perform work in IID facilities pursuant to USACE, RWQCB, and/or CDFW permits and/or authorizations. Any equipment or vehicles driven and/or operated within or adjacent to a state-jurisdictional channel will be checked and maintained by the operator daily to prevent leaks of oil or other petroleum products that could be deleterious to aquatic life if introduced to the watercourse.
- Vehicles and equipment access will be limited to the identified impact areas and speed limit of 15 mph will be enforced. The work areas and sensitive areas will be flagged prior to construction in order to ensure construction activities remain within

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the approved work limits. During operations and maintenance, vehicles and equipment will be restricted from entering sensitive habitat, and limited to maintenance access roads, where feasible, and the minimal area necessary to perform the work.

- Staging and storage areas for spoils, equipment, materials, fuels, lubricants, and solvents will be located outside the state-jurisdictional channels and within the designated impact area. Stationary equipment, such as motors, pumps, generators, compressors, and welders, located adjacent to state-jurisdictional waters shall be positioned over drip-pans or other containment. Prior to refueling and lubrication, vehicles and other equipment shall be moved away from the jurisdictional waters.

#### Other Restrictions on Activities and Personnel

- No pets, such as cats or dogs, permitted on the Project site during construction or operations and maintenance.
- Any contractor, employee, or agency personnel who kills, injures, or traps a wildlife species shall immediately report the incident to the Project biologist during construction and the operations manager during operations and maintenance.
- All pipes, culverts, or similar structures with a diameter of 4 inches or more that are stored at a construction site for one or more overnight periods shall be thoroughly inspected for special-status wildlife and nesting birds before the pipe is subsequently buried, capped, or otherwise used or moved in any way, and subsequently covered to prevent entry to nesting birds and other wildlife. If an animal is discovered inside a pipe, that section of pipe shall not be moved until the Project biologist has been consulted and the animal has either moved from the structure on its own accord or until the animal has been captured and relocated by a qualified biologist.

#### Mitigation Measure MM 4.12.4b

##### **MM 4.12.1b Environmental Awareness Training, Biological Monitoring, and Compliance**

#### Worker Environmental Awareness Program and Ongoing Training

Prior to the initiation of any on-site grading, all construction/contractor personnel working on site must complete training through a Worker Environmental Awareness Program (WEAP). New construction workers engaged in construction activities (e.g., grading, utility installation, etc.) shall complete WEAP training within the first week of deployment on the site. Additionally, operational staff shall complete WEAP training prior to deployment on the site.

#### Biological Monitoring and Compliance Documentation

- The Project biologist shall perform the biological monitoring and compliance documentation for the Project during construction, including the following:
- Prior to the initiation of any on-site grading, the Project biologist will document that required pre-construction surveys and/or relocation efforts have been implemented.

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- The Project biologist will periodically monitor activities during initial grading.
  - The Project biologist will note any evidence of trash and, if present, communicate the presence and requirement to remove the trash to the construction manager.
  - The Project Biologist shall have the following minimum qualifications: (1) Have a bachelor's degree in biological sciences, zoology, botany, ecology or a closely related field; (2) Have at least 2 years of experience in biological compliance for construction projects; and (3) Have at least 1 year of field experience with biological resources found in the geographic region of the Project.

#### Mitigation Measure MM 4.12.4c

##### **MM 4.12.1c Burrowing Owl Surveys and Avoidance/Relocation.**

- No more than 14 days prior to ground-disturbing activities (vegetation clearance, grading), a qualified wildlife biologist (i.e., a wildlife biologist with previous burrowing owl survey experience) shall conduct pre-construction take avoidance surveys on and within 656 feet of the construction zone (where safe and legally accessible) to identify occupied breeding or wintering burrowing owl burrows. The two-pass take avoidance burrowing owl surveys shall be conducted in accordance with the Staff Report on Burrowing Owl Mitigation (2012 Staff Report; CDFG 2012) and shall consist of walking parallel transects 22 feet to 65 feet apart, adjusting for vegetation height and density as needed, and noting any suitably sized burrows with fresh burrowing owl sign or presence of burrowing owls. As each burrow is investigated, biologists shall also look for signs of American badger and desert kit fox. Copies of the burrowing owl survey results will be submitted to the CDFW.
- If burrowing owls are detected on site, no ground-disturbing activities will be permitted within 656 feet of an occupied burrow during the breeding season (February 1 to August 31), unless otherwise authorized by CDFW. During the nonbreeding season (September 1 to January 31), ground-disturbing work can proceed near active burrows as long as the work occurs no closer than 165 feet from the burrow. Depending on the level of disturbance, a smaller buffer may be established in consultation with CDFW.
- If avoidance of active burrows is infeasible during the nonbreeding season, then, before breeding behavior is exhibited and after the burrow is confirmed empty by site surveillance and/or scoping, a qualified biologist shall implement a passive relocation program in accordance with Appendix E (i.e., Example Components for Burrowing Owl Artificial Burrow and Exclusion Plans) of the 2012 Staff Report. Passive relocation consists of excluding burrowing owls from occupied burrows by closing or collapsing the burrows and providing suitable artificial burrows nearby for the excluded burrowing owls.
- Where required buffering will not be feasible, passive relocation is an option in consultation with CDFW, but it is preferred to install appropriate artificial burrows (in accordance with the negotiated Plan) and then let the owls decide whether they would like to abandon the existing burrow. Only burrows that are in danger by construction should be collapsed if at all possible.

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

Mitigation Measure MM 4.12.4d

**MM 4.12.1d Nesting Bird Pre-Construction Surveys and Avoidance Plan**

- The Project biologist shall conduct pre-construction surveys no earlier than 7 days prior to any on-site grading and construction activities that occurs during the nesting season defined as February 1 – September 15 or as determined by the Project biologist. Pre-construction surveys shall be conducted within the designated construction area and a 500-foot buffer (where safe and legally accessible). Burrowing owl measures are addressed in MM 4.12.1c.
- The purpose of the pre-construction surveys will be to determine whether occupied nests are present in the construction zone or within 500 feet of the construction zone boundary on lands that are legally accessible.
- If occupied nests are found, then limits of construction to avoid occupied nests shall be established by the Project biologist in the field with flagging, fencing, or other appropriate barriers (e.g., 250 feet around active passerine nests to 500 feet around active raptor nests), and construction personnel shall be instructed on the sensitivity of nest areas. The Project biologist may adjust the 250-foot or 500-foot setback at his or her discretion depending on the species and the location of the nest (e.g., if the nest is well protected in an area buffered by dense vegetation the setback may be reduced). Once a Project biologist has determined that the birds have fledged and are no longer reliant upon the nest or parental care for survival, construction may proceed.

Mitigation Measure MM 4.12.4e

**MM 4.12.1e Transmission Line Design**

All transmission towers and lines are designed to conform to Avian Power Line Interaction Committee (APLIC) standards. APLIC standards identify the necessary physical separation between energized and/or grounded structures, conductors, hardware, or equipment to avoid the potential for that to be bridged by birds, thus avoiding the potential for electrocution. The proposed Project shall implement recommendations by the APLIC (2006, 2012) to protect raptors and other birds.

**7.5.2 IMPACT 4.12.2 – IMPACTS TO SPECIAL STATUS SPECIES (CALIFORNIA BLACK RAIL AND YUMA RIDGEWAY’S RAIL)**

- A. Potential Impact.** Suitable habitat for California Black Rail and Yuma Ridgeway’s Rail is present within irrigation ditches located within the boundaries of the Project site. Therefore, potential for impacts to special status species is considered **potentially significant** during Project construction under both the Full Buildout and Phased CUP Scenarios.

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- B. Facts in Support of Finding.** California black rail and Yuma Ridgeway's rail were not recorded during the 2017 surveys. However, suitable habitat occurs in small quantities within the irrigation drains and laterals throughout the Project site. Potential construction-related direct impacts to California black rail and Yuma Ridgeway's rail could result from unintentional clearing, trampling, or grading outside of the construction zone. Ground disturbances could potentially result in destruction of nests, eggs, and/or young if one or both of these species nests on site. Rails could be affected by construction-related noise and increased human presence. See EIR p. 4.12-33 and 4.12-34. Implementation of mitigation measure MM 4.12.1a (general construction-related avoidance and minimization measures) would limit vehicles and construction equipment to identified non-impact areas and would limit ingress and egress to established roads. Mitigation measure MM 4.12.1b (WEAP training, biological monitoring, and compliance) would further ensure avoidance of impacts to California black rails and Yuma Ridgeway's rails. Mitigation measure MM 4.12.1d (nesting bird pre-construction surveys and avoidance plan) would result in identification of any California black rails and Yuma Ridgeway's rails within areas potentially impacted by construction of the Project, establishment of appropriate buffers, and avoidance of impacts to California black rail and Yuma Ridgeway's rail. With implementation of mitigation measure MM 4.12.1b, MM 4.12.1d, MM 4.12.1e and MM 4.12.1f of the Final EIR, impacts to California black rail and Yuma Ridgeway's rail can be mitigated to below a level of significance.

#### Mitigation Measures

**Implement mitigation measure MM 4.12.1a, MM 4.12.1b and MM 4.12.1d.**

#### **7.5.3**

#### **IMPACT 4.12.3 - IMPACTS ON RIPARIAN HABITAT, WETLAND COMMUNITY OR OTHER SENSITIVE NATURAL COMMUNITY (ARROW WEED THICKET AND CATTAIL MARSH ALLIANCE)**

- A. Potential Impact.** The Project site contains Arrow Weed Thickets and Cattail Marshes Alliance. Arrow Weed Thicket is a sensitive biological resource under CEQA and Cattail Marshes Alliance is a wetland community, which is typically afforded protection under CEQA and the Clean Water Act. Implementation of the proposed Project would require permanent removal of both vegetation communities within the boundaries of CUP#17-0033. This is considered a potentially significant impact during Project construction under both the Full Buildout and Phased CUP Scenarios.
- B. Facts in Support of Finding.** The proposed Project will potentially permanently impact two sensitive vegetation communities/regulated resources on CUP#17-0033: arrow weed thickets alliance and tamarisk thickets. In addition, cattail marsh is a wetland community which is typically afforded protection under CEQA and the Clean Water Act. See EIR p. 4.12-35 and 4.12-36. This potentially significant impact would be mitigated to below a level of significance with implementation of mitigation measure MM 4.12.3. Direct impacts to sensitive vegetation and wetland communities within the boundaries of CUP#17-0033 will be mitigated with implementation of mitigation measure MM 4.12.3 which requires compliance with federal and state agency permits that may include compensatory mitigation or habitat restoration. With implementation of mitigation measure MM 4.12.3 of the Final EIR, impacts to riparian habitat or other sensitive natural community can be mitigated to below a level of significance.



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### Mitigation Measure MM 4.12.3

#### **MM 4.12.3 CUP#17-0033 - Federal and State Agency Permits**

To comply with the state and federal regulations for impacts to jurisdictional resources regulated by the United States and State of California, the following permits and agreement shall be obtained, or evidence shall be provided from the respective resource agency satisfactory to the County that such an agreement or permit is not required if development activities are proposed within jurisdictional waters:

- A Clean Water Act Section 404 permit issued by the USACE for all Project-related disturbances of jurisdictional non-wetland waters and/or wetlands.
- A Clean Water Act Section 401 permit issued by the RWQCB for all Project-related disturbances of jurisdictional non-wetland waters and/or wetlands.
- A Section 1602 Streambed Alteration Agreement issued by the CDFW for all Project-related disturbances of any streambed and associated riparian habitat.

#### **IMPACT 4.12.4 - IMPACTS ON WETLANDS/JURISDICTIONAL RESOURCES**

- A. Potential Impact.** Implementation of the proposed Project would result in the loss of both wetland waters under the jurisdiction of the USACE as well as riparian habitat during construction within the boundaries of CUP#17-0033. This is considered a potentially significant impact under both the Full Buildout and Phased CUP Scenarios.
- B. Findings.** Approximately 0.02 acre of Arrow Weed Thickets along with <0.01 acre of Cattail Marshes and <0.01 of Tamarisk Thickets within the boundaries of CUP#17-0033 would be permanently and directly impacted by Project construction. See EIR p. 4.12-36 and 4.12-37. This potentially significant impact would be mitigated to below a level of significance with implementation of mitigation MM 4.12.3. Permanent impacts to jurisdictional waters within the boundaries of CUP#17-0033 will be mitigated through mitigation measure MM 4.12.3 which requires the Applicant to obtain the necessary permits from USACE for impacts to jurisdictional resources and provide compensatory mitigation. With implementation of mitigation measures MM 4.12.3 of the Final EIR, impacts to jurisdictional wetlands can be mitigated to below a level of significance.

### Mitigation Measure 4.12.3

**Implement mitigation measure MM 4.12.3, CUP#170033 - Federal and State Agency Permits (see above).**