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12 SIERRA CLUB

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **COUNTY OF IMPERIAL**

16 SIERRA CLUB

Petitioner and Plaintiff,

18 v.

19 COUNTY OF IMPERIAL, a general law
20 county, IMPERIAL COUNTY BOARD OF
SUPERVISORS; and DOES 1 to 20, inclusive,

21 Respondents and Defendants.

Case No. ECU004734

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
INJUNCTIVE RELIEF**

23 IMPERIAL VALLEY COMPUTER
MANUFACTURING, LLC, a California
24 Limited Liability Company; DUBOSE
DESIGN GROUP, INC., a California General
25 Stock Corporation; JESUS BARRIGA, an
individual; ROBERTO BARRIGA, an
26 individual; ATEN PROPERTIES, LLC, a
California Limited Liability Company;
27 HERMENEGILDA LEIMGRUBER, AS
TRUSTEE OF THE MAX AND
28 HERMENEGILDA LEIMGRUBER LIVING

VERIFIED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR INJUNCTIVE RELIEF

Case No. _____

1 TRUST SURVIVOR'S TRUST, U/A DATED
2 AUGUST 14, 2024; DARYL DICKERSON
3 AND HEATHER DICKERSON, AS
4 TRUSTEES OF THE DARYL AND
5 HEATHER DICKERSON FAMILY TRUST
6 UNDER DECLARATION OF TRUST
7 DATED APRIL 21, 2009; JAMES A.
8 SANDERS JR., AND STEPHANIE A.
9 SANDERS AS TRUSTEES OF THE JAMES
10 A. AND STEPHANIE A. SANDERS
11 FAMILY TRUST DATED JULY 27, 2009;
12 RYAN DICKERSON, an individual; and,
13 ROES 1 to 20, inclusive,

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Real Parties in Interest.

1 **INTRODUCTION**

2 1. This action challenges the County of Imperial’s approval of lot merger #00191 (“Lot
3 Merger”) and purported road vacation (“Approvals”) for a Hyperscale AI Data Center almost one
4 million square feet in size for artificial intelligence and machine learning technology. Massive data
5 centers of this size and scope are called hyperscale data centers. The Hyperscale AI Data Center is
6 proposed to be located at the intersection of Aten and Clark Roads in the unincorporated County area.
7 The Hyperscale AI Data Center would be located adjacent to two residential neighborhoods and a fuel
8 tank farm located within the City of Imperial’ (“City”).

9 2. Data centers of this scale generate continuous noise from cooling systems, consume
10 significant quantities of water, use hazardous materials, and emit greenhouse gases, nitrogen oxides,
11 particulate matter, and other air pollutants. The Project is located within an air basin where Imperial
12 County is in nonattainment for ozone and fine particulates (PM2.5) under both state and federal
13 standards. Before issuing a generator permit, the Imperial County Air Pollution Control District requires
14 a Health Risk Assessment and Air Quality Study because the Project’s preliminary prioritization score
15 exceeded a cancer risk of 10 in 1 million.

16 3. Sierra Club has serious concerns about the environmental effects of hyperscale data
17 centers in Imperial County. For example, the energy demand from these centers is high, and, unless
18 mitigated, the production of energy for these centers can increase particulate matter, nitrogen oxides,
19 and greenhouse gas emissions. These environmental concerns are compounded when the lead agency
20 charged with reviewing such projects fails to provide any public process or environmental review. That
21 is exactly what is happening here: this Hyperscale AI Data Center is being developed via a serial
22 ministerial approval process in the absence of compliance with the California Environmental Quality
23 Act (“CEQA”). This process lacks the essential safeguards necessary to ensure the public is protected
24 and that the significant environmental impacts caused by the Hyperscale AI Data Center are mitigated.

25 4. The public has a right to know and be fully informed about the full scope of the
26 Hyperscale AI Data Center proposed to be located near their homes, understand the potential
27 environmental impacts, be afforded an opportunity for meaningful comment, engage in dialog with a
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1 wildlife habitats from noise pollution; decreasing rather than increasing air pollution in an already highly
2 overburdened air basin; ensuring that good, livable, and healthy jobs are brought to the area; promoting
3 energy efficiency and electric grid stability, including to keep energy rates in the area affordable and
4 reduce the energy burden on environmental justice and other overburdened communities in the area;
5 reducing greenhouse gas emissions; and protecting water supply in an arid region. These interests, which
6 the Sierra Club seeks to further in this action, are central to its purpose as an organization and core to its
7 mission. Sierra Club has a direct interest in ensuring that the CEQA process addresses the Project’s
8 significant impacts to air quality, noise, water resources, biological resources, hazardous materials,
9 energy, and community character—both to advance its mission and to protect its local members. Sierra
10 Club submitted comments identifying the Project’s significant environmental and public health impacts,
11 and the organization would have participated extensively in the administrative process had the County
12 afforded the public that opportunity. The maintenance and prosecution of this action will confer a
13 substantial benefit on the public by protecting the public from the environmental and other harms
14 alleged herein.

15 9. Respondent and Defendant COUNTY OF IMPERIAL is a general law county
16 established in 1907. The County is responsible for reviewing and approving private development
17 projects in unincorporated areas of Imperial County. County approval is required to construct the
18 Hyperscale AI Data Center. The County approved the Lot Merger and purported road vacation (together,
19 “Approvals”). The County is the lead agency under CEQA for the Hyperscale AI Data Center Complex
20 and determined that the Approvals were exempt from CEQA.

21 10. Respondents and Defendants IMPERIAL COUNTY BOARD OF SUPERVISORS
22 supervise the official conduct of all county officers and ensure their faithful performance of their duties,
23 direct and control litigation to which the County is a party, and exercise the County’s powers and
24 authorities including the County’s approval of the Hyperscale AI Data Center and the Approvals. Gov.
25 Code, §§ 23005, 25203, 25303.

26 11. Real Party in Interest IMPERIAL VALLEY COMPUTER MANUFACTURING, LLC
27 (“IVCM”) is a California Limited Liability Company. IVCM applied for and received the Approvals
28 from the County and is the developer of the Hyperscale AI Data Center.

1 12. On information and belief, Real Party in Interest DUBOSE DESIGN GROUP, INC.
2 (“Dubose”) is a California General Stock Corporation. On information and belief, Dubose is the
3 developer of the Hyperscale AI Data Center.

4 13. On information and belief, Real Party in Interest JESUS BARRIGA, an individual, is
5 the owner of property identified by Assessor’s Parcel Number 044-220-007 and 2304 Clark Road where
6 the Hyperscale AI Data Center is proposed to be located. On information and belief, Mr. Jesus Barriga
7 signed an owner’s affidavit granting permission to Real Parties in Interest IVCM and Dubose to apply
8 for permits from Imperial County to construct the Hyperscale AI Data Center on his property.

9 14. On information and belief, Real Party in Interest ROBERTO BARRIGA, an individual,
10 is also the owner of property identified by Assessor’s Parcel Number 044-220-007 and 2304 Clark Road
11 where the Hyperscale AI Data Center is proposed to be located.

12 15. On information and belief, Real Party in Interest ATEN PROPERTIES, LLC is a
13 California Limited Liability Company that owns properties identified by Assessor’s Parcel Numbers
14 044-220-045, 044-220-044, and 044-220-042 and 291 West Aten Road. On information and belief,
15 Ryan Dickerson, identified as a member of Aten Properties, LLC signed an owner’s affidavit granting
16 permission to Real Parties in Interest IVCM and Dubose to apply for permits from Imperial County to
17 construct the Hyperscale AI Data Center on this property.

18 16. On information and belief, Real Party in Interest HERMENEGILDA LEIMGRUBER,
19 AS TRUSTEE OF THE MAX AND HERMENEGILDA LEIMGRUBER LIVING TRUST
20 SURVIVOR’S TRUST, U/A DATED AUGUST 14, 2024 owns property identified by Assessor’s Parcel
21 Number 044-220-046 and 291 West Aten Road. On information and belief, Hermenegilda Leimgruber,
22 Trustees of the Max and Hermenegilda Leimgruber Living Trust Survivor’s Trust, U/A dated Aug. 14,
23 2024 signed an owner’s affidavit granting permission to Real Parties in Interest IVCM and Dubose to
24 apply for permits from Imperial County to construct the Hyperscale AI Data Center on this property.

25 17. On information and belief, Real Party in Interest DARYL DICKERSON AND
26 HEATHER DICKERSON, AS TRUSTEES OF THE DARYL AND HEATHER DICKERSON
27 FAMILY TRUST UNDER DECLARATION OF TRUST DATED APRIL 21, 2009 owns property
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1 identified by Assessor's Parcel Number 044-220-042, 044-220-045, 044-220-044 and 291 West Aten
2 Road where the Hyperscale AI Data Center is proposed to be located.

3 18. On information and belief, Real Party in Interest JAMES A. SANDERS JR., AND
4 STEPHANIE A. SANDERS AS TRUSTEES OF THE JAMES A. AND STEPHANIE A. SANDERS
5 FAMILY TRUST DATED JULY 27, 2009 owns property identified by Assessor's Parcel Number 044-
6 220-042, 044-220-045, 044-220-044 and 291 West Aten Road where the Hyperscale AI Data Center is
7 proposed to be located.

8 19. On information and belief, Real Party in Interest RYAN DICKERSON, an individual,
9 owns property identified by Assessor's Parcel Number 044-220-042, 044-220-045, 044-220-044 and
10 291 West Aten Road where the Hyperscale AI Data Center is proposed to be located.

11 20. Respondents and Defendants DOES 1 through 20, inclusive, are sued under fictitious
12 names. Petitioner is ignorant of the true names and capacities, whether individual, corporate,
13 governmental, or otherwise, of the Respondents and Defendants named in this Petition as DOES 1
14 through 20, inclusive, and therefore sues these Respondents and Defendants by these fictitious names.
15 Petitioner will amend this Petition to allege their true names and capacities when ascertained.

16 21. Real Parties in Interest ROES 1 through 20, inclusive, are sued under fictitious names.
17 Petitioner is ignorant of the true names and capacities, whether individual, corporate, governmental, or
18 otherwise, of the Real Parties in Interest named in this Petition as ROES 1 through 20, inclusive, and
19 therefore sues these Real Parties in Interest by these fictitious names. Petitioner will amend this Petition
20 to allege their true names and capacities when ascertained.

21 **JURISDICTION AND VENUE**

22 22. Petitioner hereby realleges and incorporates by reference the preceding paragraphs in
23 their entirety.

24 23. Pursuant to Code of Civil Procedure sections 526, 527, 1085, 1087, and 1094.5, and
25 Public Resources Code sections 21168 and 21168.5, and 21168.9, the Imperial County Superior Court
26 has initial jurisdiction to issue a writ of mandate to set aside the County's decision to approve the
27 Approvals.

1 24. Venue for this action properly lies in this Court pursuant to Code of Civil Procedure
2 section 393, which provides that “the county in which the cause, or some part of the cause arose, is the
3 proper county” for trial of actions against public officers. Code Civ. Proc., § 393; *California State Parks*
4 *Found. v. Superior Ct.* (2007), 150 Cal. App. 4th 826, 834. Here, the County’s decision to approve the
5 Approvals occurred in Imperial County and would lead to significant environmental harms in Imperial
6 County. Thus, the cause of action arose in Imperial County, and venue in this Court is proper.

7 25. The County has taken final agency action with respect to issuing the Approvals. On
8 April 7, 2026, the County of Imperial Board of Supervisors approved the Approvals. The Approvals are
9 for the sole purpose of constructing a Hyperscale AI Data Center located at the corner of Aten and Clark
10 Roads. The County filed the Notice of Exemption (“NOE”) for the Lot Merger on April 8, 2025. The
11 County has a duty to comply with applicable state laws, including but not limited to CEQA, prior to
12 undertaking the discretionary approvals at issue in this lawsuit. Petitioner timely challenges the
13 Approvals within 35 days of filing the NOE, on May 8, 2026. (Pub. Res. Code, § 21167, subd. (d)).

14 26. Petitioner has complied with the requirements of Public Resources Code section
15 21167.5 by serving a written notice of Petitioner’s intention to commence this action on the County. A
16 copy of this written notice and proof of service is attached as **Exhibit A** to this Petition.

17 27. Petitioner will send a copy of the Petition to the California Attorney General
18 concurrently with filing, thereby complying with the requirements of Public Resources Code section
19 21167.7. A copy of this written notice is attached as **Exhibit B** to this Petition.

20 28. Petitioner will comply with the requirements of Public Resources Code section 21167.6
21 by concurrently filing a notice of Petitioner’s election to prepare the record of administrative
22 proceedings relating to this action.

23 29. Petitioner has performed any and all conditions precedent to filing the instant action
24 and has exhausted any and all available administrative remedies to the extent possible and required by
25 law. On February 17, 2026, Petitioner submitted written comments to the County opposing the Lot
26 Merger and Hyperscale AI Data Center Project and raising CEQA violations, piecemealing, and code
27 compliance concerns. A copy of these written objections is attached as **Exhibit C** to this Petition and
28 incorporated herein.

1 not supported by the findings, or the findings are not supported by the evidence. Code Civ. Proc., §
2 1094.5, subd. (b).

3 38. Petitioner has a clear, present and beneficial right to the performance of the County’s
4 duty to comply with State laws and its County Code.

5 39. Petitioner has no plain, speedy or adequate remedy in the ordinary course of law unless
6 this Court grants the requested writs and injunctive relief. In the absence of such remedies, the
7 Hyperscale AI Data Center Project will be constructed — all without the requisite environmental
8 review, public comment, consideration of alternatives, mitigation of impacts, and in violation of State
9 law and local County Code.

10 **STATEMENT OF FACTS**

11 40. Petitioner hereby realleges and incorporates by reference the preceding paragraphs
12 in their entirety.

13 **Hyperscale AI Data Center Project**

14 41. Real Parties in Interest IVCM and Dubose (collectively “Applicants”) seek to develop
15 the Hyperscale AI Data Center Complex in unincorporated Imperial County at the intersection of Aten
16 and Clark Roads. The proposed Hyperscale AI Data Center is located on five parcels identified as
17 Assessor Parcel Numbers 044-220-007, 044-220-042, 044-220-044, 044-220-045, and 044-220-046
18 (collectively, the “Property”) and on Leimgruber Road, a public County-owned roadway. The parcels
19 are zoned A-2-U (General Agriculture within Urban Boundaries), M-1-N-U (Light Industrial, No
20 Residential within Urban Boundaries), and M-2-U (Medium Industrial within Urban Boundaries).
21 Leimgruber Road has no zoning designation.

22 42. The Property is adjacent to two neighborhoods located in the City of Imperial. The
23 nearest homes are estimated to be within 200 feet of the Project.

24 43. In an email dated July 31, 2025, Mr. Sebastian Rucci (Chief Executive Officer and
25 Counsel of IVCM) told County Planning & Development Services Director Jim Minnick that the Project
26 will “enable Google to conduct artificial intelligence and large language model training for its Gemini
27 system” and that it will be “the largest data center in California.”
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1 September 4, 2025, letter, the Planning Department informed IVCM that because the Hyperscale AI
2 Data Center Project was situated on differently zoned parcels and crossed the boundary of three zoning
3 areas, “some of the identified uses in the layout are not fully consistent with building code requirements
4 relating to construction across property lines.” The County provided two options to satisfy the building
5 code requirements: (1) revise the site layout so that each structure would be located entirely within a
6 specific parcel where the use is permitted; or, (2) submit a lot merger and lot line adjustment
7 applications to configure the boundary limits. In addition, the Planning Department informed IVCM that
8 the proposed parking plan for the Project did not meet the minimum requirements and that a variance
9 application was required.

10 47. On November 3, 2025, the County signed the NOE for the Grading Permit (“Grading
11 NOE”), concluding that it was exempt from CEQA under Public Resources Code section 21080(b)(1)
12 and CEQA Guidelines section 15268. The Grading NOE was filed and posted by the County Clerk-
13 Recorder on November 6, 2025. The Grading Permit would authorize “EARTH WORK PERFORMED
14 TO CONSTRUCT A DATA CENTER AND ACCESSORY USES SUCH AS A SUBSTATION,
15 BATTERY BACKUP, AND GENERATOR BACKUP.” The record reflects that the County has not
16 issued the Grading Permit.

17 **Lot Merger Application and Approval**

18 48. According to the record, on October 31, 2025, IVCM submitted a lot merger
19 application to reconfigure the boundary limits so that the Property would be one parcel in order to
20 address the County’s conclusion that the Hyperscale AI Data Center Project could not be constructed on
21 differently zoned parcels and across property boundaries.

22 49. Further, the Property includes a parcel that is zoned and designated under the General
23 Plan for agricultural uses.

24 50. IVCM initiated the Lot Merger as the property owner and certified it owned all of the
25 properties even though, on information and belief, according to the County Assessor’s Office, it is not
26 the owner of any of five parcels or Leimgruber Road.

27 51. IVCM submitted a project description for the Lot Merger that stated “[t]he applicant is
28 seeking to merge five parcels to accommodate the siting of a proposed data center development as well

1 as the ancillary uses such as a substation, battery backup, and generator back up.” IVCM proposed that
2 the newly merged parcel be zoned M-1 N-U.

3 52. On or around November 3, 2025, the Planning Department requested several public
4 agencies review and comment on the proposed Lot Merger. The request described the project as follows:
5 “The Applicant proposes a comprehensive Lot Merger to consolidate five (5) individual parcels into a
6 single ±74.33-acre site for the future construction and development of a Data Center. The project would
7 include ancillary infrastructure such as an electrical substation, an on-site Batter Energy Storage System
8 (BESS) to support power backup, and emergency power generation through natural gas backup
9 generators. The site is situated on previously disturbed agricultural and industrial lands. Legal and
10 physical access to the newly merged parcel would be provided via Aten Road and Clark Road. The
11 applicant intends to enter into a contract with a local municipality to supply reclaimed water from the
12 municipality’s water treatment facility via a dedicated conveyance system. The reclaimed water would
13 be piped and delivered to the project site for additional remediation, as required by the State of
14 California and Imperial County Environmental Health Services. All wastewater generated by the facility
15 would be generated on-site through a proposed wastewater treatment system. Once treatment capacity is
16 reached, the treated effluent would be conveyed to IID’s Central Drain.”

17 53. On November 13, 2025, IID submitted comments to the Planning Department on the
18 Lot Merger. Specifically, IID required the inclusion of public utility easements and that the substations
19 and switchyards located on Property be transferred to IID in fee simple ownership with legal access. The
20 County’s Department of Public Works (“Public Works”) also required an irrevocable offer of dedication
21 for Clark Road.

22 54. In addition to comments submitted by IID, on November 18, 2025, the Imperial County
23 Fire Department submitted comments to the Planning Department on the proposed Lot Merger. Among
24 other things, the Fire Department required “[a]n approved water supply capable of supplying the
25 required fire flow”, access roads, and that a “mitigation analysis of toxic smoke and hazards from BESS
26 fires be conducted regarding impacts on the surrounding community. Mitigation analysis shall be
27 prepared to address toxic smoke, explosion blast and other hazards related to BESS that will affect the
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1 surrounding residential and commercial zoning. This mitigation analysis should include public
2 evacuation plans and/or shelter in place for surrounding community.”

3 55. According to the record, on December 3, 2025, County Public Works submitted
4 comments to the Planning Department on the proposed Lot Merger. Public Works requested the County
5 impose the following requirements to be imposed as conditions of approval on the Lot Merger:

6 a. Recordation of the Lot Merger shall be subject to the recordation of deeds of land
7 exchange for all continuous parcels to be held by the same owner.

8 b. Lots or parcels cannot be separated by or affected by an easement, right-of-way,
9 road alley or canal (including public utility easements).

10 c. IVCN to apply for a road vacation for the abandonment of Leimgruber Road.

11 56. According to the record, on December 16, 2025, Public Works informed the
12 County’s Planning Department the grading plans would not be accepted until a lot merger was approved
13 and recorded.

14 57. On December 17, 2025, the City sent the County extensive comments objecting to the
15 Lot Merger because, among other things, the Lot Merger application was faulty and inaccurate for lack
16 of appropriate written consent, not authorized because the parcels were not under common ownership,
17 Leimgruber Road had not been vacated, the merger parcel was required to be rezoned with one
18 designation, and that it was not exempt from CEQA.

19 58. On December 18, 2025, the County Planning Commission held a public hearing on the
20 Lot Merger Application. The City of Imperial’s City Manager testified at the hearing in opposition to the
21 Lot Merger.

22 59. According to the record, at the conclusion of the public hearing, Commissioner Kalin
23 made a motion to approve the Lot Merger, which failed. Commissioner Cabanas made a second motion
24 “to table this project until the developer, the City of Imperial, the City of El Centro, and the
25 community...get together, get some workshops, and come to an agreement if this project is valuable in
26 that location or moved to another location, but not before everybody has a chance to listen to the project
27 pros and cons.” Commissioner Cabanas’ motion passed unanimously. The Planning Commission never
28 denied the Lot Merger and never made a CEQA decision for the project.

1 60. According to the record, Chairman Schaffner sought clarification from Mr. Jim
2 Minnick, Planning Director regarding the role of the Board of Supervisors because the Planning
3 Commission tabled the Lot Merger. Specifically, Chairman Schaffner asked Mr. Minnick, “So, this has
4 to come back to us, not to the Board of Supervisors?” Mr. Minnick answered, “The lot merger has been
5 continued. In order to have a lot merger, should the applicant choose to proceed with the lot merger, it
6 has to come back to this commission for a new hearing. You have not decided to approve it or deny it,
7 only to continue it.”

8 61. IVCM declared that the Planning Commission had disapproved the Lot Merger, which
9 it had not, and on December 18, 2025, appealed the “decision” to the Board of Supervisors.

10 62. On December 26, 2025, the City filed objections to the IVCM appeal because the
11 Board of Supervisors is not legally authorized to consider IVCM’s appeal. The City also filed a
12 protective appeal.

13 63. IVCM never complied with the Planning Commission’s motion. IVCM did not
14 schedule a meeting with the City of Imperial or the community to discuss the Hyperscale AI Data Center
15 Project.

16 64. The Lot Merger was never brought back to the Planning Commission for further
17 consideration.

18 65. On February 17, 2026, Sierra Club submitted two comment letters opposing the Lot
19 Merger and the proposed data center project to the Imperial County Board of Supervisors. The letters
20 raised concerns about CEQA violations, compliance with Government Code section 664499.20.3, and
21 County Ordinance 90808.00 et seq., as well as the County’s failure to conduct the required coordination
22 with the City on zoning and failure to obtain the required Airport Land Use Commission review. The
23 letters also raised concerns about the environmental, public health, and community impacts of the Lot
24 Merger and Project.

25 66. On February 17, 2026, Sierra Club submitted a comment letter to the Imperial County
26 Air Pollution Control District requesting the District to require a comprehensive and transparent air
27 quality analysis of the proposed data center project. Sierra Club urged the District to include the
28 following in the analysis: a full emissions inventory reflecting maximum potential operational scenarios;

1 modeling of cumulative impacts in conjunction with existing regional emission sources; a construction-
2 phase emissions analysis, including fugitive dust and diesel exhaust from heavy equipment and truck
3 traffic; a health risk assessment evaluating impacts to nearby residents, schools, and vulnerable
4 populations; and an evaluation of consistency with state and regional greenhouse gas reduction targets.

5 67. On March 24, 2026, the County posted a notice that the Board of Supervisors intended
6 to conduct a special meeting to be held on March 26, 2026, that was informational only and not a public
7 hearing.

8 68. On March 26, 2026, the Board of Supervisors held the informational meeting on the
9 Hyperscale AI Data Center. During the meeting, the Board heard a presentation from the Planning
10 Director, Mr. Jim Minnick, and IVCN, and then approximately three hours of public comment. See
11 https://imperial.granicus.com/player/clip/2870?view_id=2&redirect=true

12 69. On March 27, 2026, a notice was published in the Imperial Valley Press stating that the
13 Board of Supervisors intended to hold a public hearing on April 7, 2026, to decide whether to approve or
14 deny the Lot Merger. The notice did not identify that any street vacation would be considered by the
15 Board of Supervisors at the April 7, 2026 hearing.

16 70. On April 6, 2026, the City submitted comments to the Board of Supervisors objecting
17 to the Lot Merger on numerous grounds including that the Board lacked jurisdiction and authority to
18 make a decision because a Planning Commission decision was required first, the public notice was
19 defective, the Lot Merger violated State law and the County Code, etc.

20 71. The Agenda for the April 7, 2026, meeting was as follows:

21 Conduct a public hearing to consider Appeal #25-0004 and Appeal #25-0005
22 of the December 18, 2025, Planning Commission's decision on Lot Merger
#00191 submitted by Imperial Valley Computer Manufacturing, LLC.

23 a. Consider Approval or Denial of Appeal #25-0004 (Imperial Valley
24 Computer Manufacturing); and,

25 b. Consider Approval or Denial of Appeal #25-0005 (City of Imperial); and,

26 c. Consider Approval or Denial of Lot Merger #00191
27
28

1 72. The Board letter for the Lot Merger for the April 7, 2026, meeting was as follows:

2 **REQUESTED ACTION:**

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

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

12 73. On April 7, 2026, the Board of Supervisors held a public hearing on the Lot Merger
13 Application. At the hearing, the City's attorney presented the City's opposition to the Lot Merger.
14 Approximately three hours of public testimony were presented. See

15 https://imperial.granicus.com/player/clip/2874?view_id=2&redirect=true

16 74. Several members of the public commented raising concerns and objecting to the
17 unstudied, unmitigated environmental impacts of the proposed Lot Merger and data center project.

18 75. During the April 7, 2026, meeting the Board of Supervisors acted on three motions as
19 follows:

- 20 • Motion 1 by Supervisor Ryan Kelley: "Approval of appeal 25-004, that is my motion."
21 • Motion 2 by Supervisor Ryan Kelley: "The motion is to deny the appeal [25-0005]."
22 • Motion 3 by Supervisor Ryan Kelley: Approve Lot Merger.

23 76. All three motions passed. There was never any reference made to a resolution for the
24 Lot Merger, let alone a motion to adopt it. Nor was there any CEQA determination made.

25 77. Even though the Board of Supervisors did not render a CEQA decision, the County
26 Planning Director nevertheless arranged to have an NOE filed and posted on April 8, 2026, by the
27 Imperial County Clerk-Recorder ("Lot Merger NOE").

28 78. The April Lot Merger NOE states that the "Imperial County Board of Supervisors"
approved the Project which is identified as "Lot Merger #00191 and vacation of Leimgruber Road." The

1 NOE describes the Project as follows: “The Applicant proposes a Lot Merger to consolidate five (5)
2 individual parcels and Leimgruber Road into a single = ±75.39-acre site for the future development of a
3 Data Center Complex. The project would include ancillary infrastructure such as an electrical substation,
4 an on-site Battery Energy Storage System to support power backup, and emergency power generation
5 through natural gas backup generators. The site is situated on previously disturbed agricultural and
6 industrial lands. The Applicant also proposes that the County vacate Leimgruber Road.” The Lot Merger
7 NOE includes no description of any action to vacate Leimgruber Road.

8 79. The Lot Merger NOE claims the Project is ministerial under Public Resources Code,
9 section 21080(b)(1) and CEQA Guidelines, section 15269(a) and categorically exempt under Public
10 Resources Code, section 15305, Class 5, Minor Alteration in Land Use Limitations because “[t]he
11 project involves minor modifications to land use limitations in an area with an average slope of less than
12 20% and does not result in any changes to land use or density.”

13 **Leimgruber Road Vacation**

14 80. The Lot Merger purports to include merging Leimgruber Road, which is owned by the
15 County, with the other parcels.

16 81. On December 16, 2025, Public Works submitted comments to the County’s Planning
17 Department requiring the approval of the road vacation of Leimgruber Road by the Road Commissioner
18 and the Board of Supervisors before the grading plans were accepted.

19 82. County consent as the landowner of Leimgruber Road has not been properly provided.
20 Such consent requires Board of Supervisor approval of a road vacation under Street and Highway Code,
21 sections 8300 et al., and transfer of the Road to the private owner of the neighboring land. The County
22 Code mandates that road vacations must adhere to State law. ICMC, § 12.08.020.

23 83. State law requires the Board of Supervisors to, among other things, consider the
24 General Plan in deciding whether to vacate the roadway. (Sts. & Hy. Code, § 8313.) The “consideration”
25 does not involve the use of fixed standards or objective measurements. Rather, the “consideration”
26 involves the exercise of judgment or deliberation to determine, for example, which goals, policies, and
27 objectives in the General Plan should be applied, how they should be applied, and whether they support
28

1 approval or denial of the vacation of the roadway. Under State law, these activities are discretionary.
2 (Cal. Code Regs., tit. 14 (“CEQA Guidelines”), § 15357.)

3 84. State law requires the Board of Supervisors to hold a public hearing on a road vacation
4 application. (Sts. & Hy. Code, § 8321.) At the hearing, the Board is required to hear evidence offered by
5 interested persons. (Sts. & Hy. Code, § 8324.) Due process requirements involve fact finding and
6 deliberation based on subjective criteria which indicate discretionary authority. (*Venice Coalition to*
7 *Preserve Unique Community Character*, 31 Cal.App.5th at 50.) The Board must find, from all of the
8 evidence submitted, that the roadway is unnecessary for present or prospective public use, and the Board
9 may impose conditions upon the vacation. (*Id.*) Under State law, these activities are discretionary.
10 (CEQA Guidelines, § 15357.)

11 **PROCEDURAL HISTORY**

12 85. On December 4, 2025, the City filed a petition for writ of mandate challenging the
13 County’s approval of the Grading Permit (“Ongoing Action”) in the County of Imperial Superior Court,
14 Case Number ECU004457.

15 86. On January 7, 2025, the City filed its first amended petition for writ of mandate in the
16 Ongoing Action.

17 87. On March 11, 2026, the City filed its second amended petition for writ of mandate in
18 the Ongoing Action.

19 88. On May 1, 2026, Sierra Club moved to intervene in that action.

20 89. On May 5, 2026, following the County’s approval of the Lot Merger, the City filed a
21 supplemental petition in the Ongoing Action.

22 90. Sierra Club intends to relate and/or consolidate this action with the Ongoing Action
23 once this action is filed and assigned.

1 **FIRST CAUSE OF ACTION**

2 **(Writ of Mandate and Writ of Administrative Mandamus for**

3 **County Code Violation – BOARD OF SUPERVISORS LACKED AUTHORITY TO**
4 **MAKE CEQA DETERMINATION – Against All Respondents/Defendants and DOES 1-**
5 **20 inclusive and ROES 1-20 inclusive)**

6 91. Petitioner hereby realleges and incorporates by reference the preceding paragraphs in
7 their entirety.

8 92. County Ordinance 90103.08(E) provides that “[i]t shall be the function and duty of the
9 planning commission to assure that all projects meet and are in full compliance with the California
10 Environmental Quality Act (CEQA) and the county’s rules and regulations to implement CEQA. The
11 commission shall have the authority to certify any negative declaration or mitigated negative declaration
12 and require or certify an environmental impact report.”

13 93. The Planning Commission is the government entity that is responsible for making the
14 original CEQA determination for the Approvals.

15 94. The Planning Commission never made any CEQA determination for the Approvals.

16 95. Therefore, the City Council lacked authority to make the CEQA determination for the
17 Approvals.

18 96. The Approvals and NOE must be revoked because the Board of Supervisors lacked
19 authority to make a CEQA determination in the first instance.

20 **SECOND CAUSE OF ACTION**

21 **(Writ of Mandate and Writ of Administrative Mandamus for**

22 **CEQA Violations – APPROVALS NOT EXEMPT AS MINISTERIAL– Against All**
23 **Respondents/Defendants and DOES 1-20 inclusive and ROES 1-20 inclusive)**

24 97. Petitioner re-alleges and incorporates by reference the preceding paragraphs in their
25 entirety, as though fully set forth herein.

26 98. The Approvals are not exempt from CEQA as ministerial actions. Lot mergers and road
27 vacations are not listed as ministerial actions presumed to be exempt from CEQA (CEQA Guidelines, §
28 15268 (b)).

1 99. The County violated CEQA by approving the Approvals without environmental review
2 and issuing an NOE pursuant to Public Resources Code, section 21080(b)(1). Public Resources Code,
3 section 21080(b)(1) provides that CEQA does not apply to “[m]inisterial projects proposed to be carried
4 out or approved by public agencies.” The Approvals are not ministerial projects.

5 100. State law defines which public agency activities are ministerial and discretionary.
6 “‘Ministerial’ describes a governmental decision involving little or no personal judgment by the public
7 official as to the wisdom or manner of carrying out the project. The public official merely applies the
8 law to the facts as presented but uses no special discretion or judgment in reaching a decision. A
9 ministerial decision involves only the use of fixed standards or objective measurements, and the public
10 official cannot use personal, subjective judgment in deciding whether or how the project should be
11 carried out. Common examples of ministerial permits include automobile registrations, dog licenses, and
12 marriage licenses.” CEQA Guidelines, § 15369.

13 101. CEQA applies to discretionary projects. Pub. Res. Code, § 21080(a). “‘Discretionary
14 project’ means a project which requires the exercise of judgment or deliberation when the public agency
15 or body decides to approve or disapprove a particular activity, as distinguished from situations where the
16 public agency or body merely has to determine whether there has been conformity with applicable
17 statutes, ordinances, regulations, or other fixed standards. The key question is whether the public agency
18 can use its subjective judgment to decide whether and how to carry out or approve a project.” CEQA
19 Guidelines, § 15357.

20 102. The CEQA Guidelines section 15268 (b) identifies actions that are presumed to be
21 ministerial. Lot mergers and road vacations are not listed as ministerial actions presumed to be exempt
22 from CEQA.

23 103. The Approvals are discretionary. The Planning Director may schedule the Lot Merger
24 for action by the Planning Commission, which was done in this case. (ICMC, § 90808.04.)

25 104. The Imperial County Board of Supervisors has discretion as to whether to vacate a
26 road. (ICMC, §§ 12.08.010, 12.08.020; *see also* Sts. & Hy. Code, § 8312 (“board of supervisors may
27 vacate” a road); Sts. & Hy. Code, § 8330 “The legislative body of a local agency may summarily vacate
28 a street or highway”); *County of Amador v. City of Plymouth* (2007) 149 Cal.App.4th 1089, 1107

1 (holding vacation of road will cause environmental impacts with respect to traffic and was thus subject
2 to CEQA); *Cramer v. Los Angeles County* (1950) 96 Cal.App.2d 255, 257 (“The cited [vacation]
3 statutes conferred a broad discretion upon a board of supervisors to abandon any highway”).)

4 105. At the March 26, 2026, Board of Supervisors’ informational meeting on the Hyperscale
5 AI Data Center, the Planning Director told the Board: “The project that is coming forward, however, is a
6 lot merger. And lot mergers are discretionary.”

7 106. Public Works, the Fire Department, and IID exercised discretion to add discretionary
8 conditions on the Lot Merger. The conditions are not requirements from the County Code. (ICMC, §
9 91011.01-03.) These agencies exercised their subjective judgment in deciding to impose the above
10 conditions on the Lot Merger for the Hyperscale AI Data Center Project. The addition of discretionary
11 conditions renders the Lot Merger approval discretionary. (See e.g., *Friends of Westwood, Inc.*, 191
12 Cal.App.3d at 274-75.) Under State law, these activities are discretionary. (CEQA Guidelines, § 15357.)

13 107. The NOE simultaneously claims the project is both exempt because it is ministerial and
14 exempt under Class 5 because it is discretionary, yet, when a project “involves an approval that contains
15 elements of both a ministerial action and a discretionary action, the project will be deemed to be
16 discretionary.” (CEQA Guidelines, § 15268, subd. (d); *see also Association for a Cleaner Environment*
17 *v. Yosemite Community College Dist.* (2004) 116 Cal.App.4th 629, 640.). The County recognized the
18 Approvals were not ministerial by attempting to apply an exemption for discretionary approvals.

19 **THIRD CAUSE OF ACTION**

20 **(Writ of Mandate and Writ of Administrative Mandamus for**
21 **CEQA Violations – PROJECT NOT EXEMPT UNDER CLASS 5 CATEGORICAL**
22 **EXEMPTIONS OR ANY OTHER EXEMPTIONS– Against All**
23 **Respondents/Defendants and DOES 1-20 inclusive and ROES 1-20 inclusive)**

24 108. Petitioner hereby realleges and incorporates by reference the preceding paragraphs in
25 their entirety.

26 109. The Approvals were not exempt as a minor land alteration. Under CEQA, Class 5
27 exemptions consist of minor alterations in land use limitations in areas with an average slope of less than
28 20%, which *do not result in any changes in land use or density*, including but not limited to

- 1 a. Minor lot line adjustments, side yard, and set back variances not resulting in the
- 2 creation of any new parcel;
- 3 b. Issuance of minor encroachment permits
- 4 c. Reversion to acreage in accordance with the Subdivision Map Act. (CEQA
- 5 Guidelines, § 15305.)

6 110. The Approvals do not fall into any of the enumerated examples. Instead, they included
7 a Lot Merger that was necessary to allow for the construction of the Hyperscale AI Data Center because
8 County Code prohibits development across lot lines. (ICMC, §§ 90807.00-90809.05; see also §§
9 90101.05, 90508.06-08.) County staff acknowledged, “As currently designed, some of the identified
10 uses in the layout are not fully consistent with building code requirements related to construction across
11 property lines.”

12 111. The Lot Merger will further result in a change in land use, including a change in land
13 use from agricultural zoning and uses, to light industrial zoning and uses.

14 112. Therefore, the Approvals will result in a change in land use and density and do not
15 qualify for a categorical exemption.

16 113. The Approvals further do not qualify for a categorical exemption because they fall
17 within multiple exceptions to categorical exemptions, including due to location, cumulative impact,
18 significant effect due to unusual circumstances, and hazardous waste sites. (§ 15300.2 (a), (b), (c), (e).)

19 **FOURTH CAUSE OF ACTION**

20 **(Writ of Mandate and Writ of Administrative Mandamus for**

21 **CEQA Violations – IMPROPER PIECEMEALING – Against All**

22 **Respondents/Defendants and DOES 1-20 inclusive and ROES 1-20 inclusive)**

23 114. Petitioner hereby realleges and incorporates by reference the preceding paragraphs in
24 their entirety.

25 115. The County’s actions constituted impermissible piecemealing under CEQA.

26 116. The Hyperscale AI Data Center Project contains all the components identified in this
27 Petition. All these components have a potential for resulting in a direct physical change or a reasonably
28 foreseeable indirect physical change in the environment. *See* paragraphs 123-214. None of the Project’s

1 components have independent utility. The entire purpose of the Approvals is to accommodate the
2 Hyperscale AI Data Center. The Approvals would not be necessary except for the Hyperscale AI Data
3 Center.

4 117. The County has a State statutory obligation to comply with CEQA and its Guidelines
5 *prior* to making the first decision to approve a project that is subject to CEQA. CEQA Guidelines, §
6 15004(a); *California Unions for Reliable Energy v. Mojave Desert Air Quality Management Dist.*
7 (2009) 178 Cal.App.4th 1225, 1246. None of the approvals for the Hyperscale AI Data Center Project
8 can be issued without CEQA compliance for the entire Project. CEQA Guidelines, § 15004(a). The
9 County violated CEQA by issuing the Approvals without assessing the environmental impacts of the
10 whole Project, in compliance with CEQA.

11 118. “[A]pproval occurs upon the earliest commitment to issue or the issuance by the public
12 agency of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, lease,
13 permit, license, certificate, or other entitlement for use of the project.” CEQA Guidelines, § 15352. The
14 Approvals constitute a commitment to approve the Project.

15 119. “‘Project’ means the whole of an action which has a potential for resulting in a direct
16 physical change or a reasonably foreseeable indirect physical change in the environment.” CEQA
17 Guidelines, § 15378(a).

18 120. CEQA requires the entire Project to be reviewed as a single action even if project
19 components are subject to individual approvals. CEQA Guidelines, § 15378(a)-(c). CEQA compelled
20 the County to have evaluated all potential environmental impacts caused by the entire Project (all
21 components together). CEQA Guidelines, § 15004(a). The County did not do so, despite acknowledging
22 the Lot Merger was a discretionary decision that is part of the broader proposed Hyperscale Data Center.

23 121. Agencies are not permitted to avoid environmental review by chopping up a project
24 into small pieces - piecemealing. *Bozung v. Local Agency Formation Com.* (1975) 13 Cal.3d 263, 284.

25 122. The County did not conduct an environmental analysis pursuant to CEQA for the entire
26 Hyperscale AI Data Center Project before it approved the Approvals. The County is impermissibly
27 piecemealing CEQA review of the Project. Therefore, the County violated CEQA when it issued the
28 Approvals.

1 123. The County acknowledged the Lot Merger requires a discretionary approval. As
2 described elsewhere herein, there are also other discretionary approvals required for the Hyperscale AI
3 Data Center Project (e.g., site plan approval, rezoning, one or more conditional use permits (“CUP”),
4 variance, Airport Land Use Commission review, etc.) None of the environmental impacts caused by
5 these discretionary approvals were considered when the County decided the Approvals were exempt
6 from CEQA.

7 124. The County did not conduct an environmental analysis pursuant to CEQA for the entire
8 Hyperscale AI Data Center Project before it approved the Approvals.

9 125. The facts demonstrate that the County is engaging in a process of considering each
10 approval separately (i.e., serial approvals) which constitutes impermissible piecemealing under CEQA.

11 **FIFTH CAUSE OF ACTION**

12 **(Writ of Mandate and Writ of Administrative Mandamus for**
13 **CEQA Violations – ENVIRONMENTAL IMPACT REPORT REQUIRED – Against All**
14 **Respondents/Defendants and DOES 1-20 inclusive and ROES 1-20 inclusive)**

15 126. Petitioner hereby realleges and incorporates by reference the preceding paragraphs in
16 their entirety.

17 127. The Approvals and the Lot Merger NOE must be revoked because the Project has the
18 potential to cause significant impacts, as set forth below and elsewhere in this Petition.

19 128. Accordingly, the County was obligated to prepare an EIR before the Board of
20 Supervisors approved the Approvals. The EIR was required to address the significant environmental
21 effects of the “whole” Hyperscale AI Data Center Project and consider alternatives (such as a different
22 and safer location) and mitigation measures to reduce these significant effects. (See e.g., Pub. Res. Code,
23 §§ 21002.1(d).) The County violated CEQA in this regard.

24 129. The County’s noncompliance with the information disclosure provisions of CEQA,
25 which precludes relevant information from being presented to the public agency, and noncompliance
26 with substantive requirements, also constituted a prejudicial abuse of discretion. (Pub. Res. Code, §
27 21005(a).)

1 130. CEQA requires the entire Project to be reviewed as a single action even if project
2 components are subject to individual approvals. CEQA Guidelines, § 15378(a)-(c).

3 131. CEQA requires the County to prepare an EIR if there is substantial evidence in light of
4 the whole record that there is a fair argument that a project may have a significant effect on the
5 environment Pub. Res. Code, § 21080(d); CEQA Guidelines, § 15064(f)(1). If there is disagreement
6 among expert opinion supported by facts over the significance of an effect on the environment, the Lead
7 Agency shall treat the effect as significant and shall prepare an EIR. CEQA Guidelines, § 15064(g).

8 132. Economic or social changes may be used to determine that a physical change shall be
9 regarded as a significant effect on the environment. Where a physical change is caused by economic or
10 social effects of a project, the physical change may be regarded as a significant effect in the same
11 manner as any other physical change resulting from the project. Alternatively, economic and social
12 effects of a physical change may be used to determine that the physical change is a significant effect on
13 the environment. If the physical change causes adverse economic or social effects on people, those
14 adverse effects may be used as a factor in determining whether the physical change is significant. CEQA
15 Guidelines, § 15064(e).

16 133. CEQA requires that public agencies should not approve projects as proposed if there
17 are feasible alternatives or feasible mitigation measures available which would substantially lessen the
18 significant environmental effects of such projects. Pub. Res. Code, §§ 21002, 21002.1(b).

19 134. As detailed below for each of the CEQA environmental impact areas, the record shows
20 that the Hyperscale AI Data Center Project has the potential to cause significant impacts, and there are
21 feasible alternatives and feasible mitigation measures available which would substantially lessen the
22 significant environmental effects.

23 135. Accordingly, the County was obligated to prepare an EIR before issuing the Approvals
24 to address the significant environmental effects of the “whole” Hyperscale AI Data Center Project and
25 consider alternatives (such as a different and safer location) and mitigation measures to reduce these
26 significant effects. *See, e.g.*, Pub. Res. Code, §§ 21002.1(d). The County violated CEQA in this regard.

1 136. The County’s noncompliance with the information disclosure provisions of CEQA,
2 which precludes relevant information from being presented to the public agency, or noncompliance with
3 substantive requirements, also constituted a prejudicial abuse of discretion. Pub. Res. Code, § 21005(a).

4 **HAZARDS AND HAZARDOUS MATERIALS**

5 137. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
6 cause significant environmental impacts if it would: (1) “[c]reate a significant hazard to the public or the
7 environment through the routine transport, use, or disposal of hazardous materials”; (2) “[c]reate a
8 significant hazard to the public or the environment through reasonably foreseeable upset and accident
9 conditions involving the release of hazardous materials into the environment”; (3) “[b]e located on a site
10 which is included on a list of hazardous materials sites compiled pursuant to Government Code Section
11 65962.5 and, as a result, would it create a significant hazard to the public or the environment”; or (4)
12 “[f]or a project located within an airport land use plan or, where such a plan has not been adopted,
13 within two miles of a public airport or public use airport, would the project result in a safety hazard or
14 excessive noise for people residing or working in the project area.”

15 138. Hyperscale AI data centers routinely handle, use and dispose of hazardous materials—
16 including lead-acid/lithium-ion batteries, diesel fuel, fire suppressants (FM-200), cooling agents
17 (ammonia), and e-waste containing heavy metals. Therefore, the Project has the potential to create a
18 significant hazard to the public or the environment through the routine transport, use, or disposal of
19 hazardous materials.

20 139. The Project has the potential to cause physical harm and health impacts to nearby
21 persons resulting from constant noise, fires, explosions, and toxic and hazardous emissions. These types
22 of hyperscale AI data centers can experience electrical failures, equipment overheating, extreme heat
23 from equipment operation, etc. The combination of large-scale electrical equipment, dense cabling, and
24 flammable materials creates significant fire hazards.

25 140. The Project has the potential to create a significant hazard to the public or the
26 environment through reasonably foreseeable upset and accident conditions involving the release of
27 hazardous materials into the environment.

1 141. According to the record, the Project is proposed to be located on a site which is
2 included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5
3 and, as a result, has the potential to create a significant hazard to the public or the environment. From
4 approximately 1973 to 1977, one of the parcels composing the Property was used for a copper-coated
5 steel wire production facility which involved chemical processes that used chemical solutions such as
6 sulfuric acid, hydrofluoric acid, calcium hydroxide and borax. In 1979, Caspian, Inc. purchased the
7 parcel for the manufacture of aerospace component parts. Caspian, Inc. used a chemical process that
8 involved controlled dissolution of metal in a solution of hydrochloric, nitric, and hydrofluoric acid, after
9 which the metal was removed and rinsed with water. Testing of the parcel indicated a need for further
10 site remediation. The 1989 DTSC Consent Order and 1993 Remedial Action Plan are intended to
11 address the on-site contamination from these activities. Under the Land Use Covenant, no activities that
12 disturb the soil are permitted without a Soil Management Plan pre-approved by DTSC in writing, and
13 there can be no interference with the membrane layer. The earthwork permitted by the Grading Permit
14 that is estimated to involve cuts of 81,920 cubic yards and fill of 88,227 cubic yards will disturb the soil.
15 As the Project is located on a site which is included on a list of hazardous materials sites compiled
16 pursuant to Government Code Section 65962.5, there is the potential for the Project to create a
17 significant hazard to the public or the environment.

18 142. The Project is located within ALUCP, Zone 6, Traffic Pattern Zone, and could result in
19 a safety hazard for people residing or working in the Project area. According to the ALUCP safety zone
20 criteria, while industrial uses may be permitted with the imposition of conditions, facilities that store
21 hazardous materials, like the Project, can pose serious physical and health risks to the public in the case
22 of aircraft accidents. The ALUCP also seeks to avoid developments that can pose hazards to flight and
23 increase the risk of an accident occurring. Safety issues that could be created by the Project include
24 airspace obstructions like the power lines and electrical substations, visual interference like significant
25 light and glare and water vapor/steam, and electrical interference. Therefore, the Project has the
26 potential to result in a safety hazard for people residing or working in the Project area.

27 143. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
28 cause significant impacts and an EIR is required

AIR POLLUTION AND AIR TOXIC IMPACTS

1
2 144. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
3 cause significant environmental impacts if it would: (1) “[c]onflict with or obstruct implementation of
4 the applicable air quality plan”; (2) “[e]xpose sensitive receptors to substantial pollutant concentrations”;
5 or (3) “[r]esult in other emissions...adversely affecting a substantial number of people.”

6 145. The Project is located within the Salton Sea Air Basin (“SSAB”). The Imperial County
7 portion of the SSAB is currently designated as nonattainment for ozone (“O3”) under State standards.
8 Under federal standards, the Imperial County portion of the SSAB is in nonattainment for O3, and fine
9 particulates, 2.5 microns (“PM2.5”). The area is currently in attainment or unclassified status for carbon
10 monoxide (“CO”), nitrogen dioxide (“NO2”), and sulfur dioxide (“SO2”). The most recent state
11 implementation plans (“SIPs”) are: 2017 Imperial County Plan for 2008 8-hour Ozone Standard, 2018
12 Imperial County Plan for PM10, and 2018 Imperial County Plan for PM2.5.

13 146. The APCD adopted a CEQA Handbook that sets forth thresholds of significance for
14 project operations. Project operations that have the potential to emit 137 pounds/day or greater of
15 nitrogen oxides (“NOx”) or reactive organic gases (“ROG”) are considered to have a significant impact
16 on regional and local air quality under CEQA. ROG is a subset of volatile organic compounds (“VOC”).
17 Further, under APCD Rule 207 a source that has the potential to emit 100 tons/year or more of VOCs or
18 NOx is considered a major stationary source. The APCD has a threshold for operational emissions for
19 PM10 at 150 pounds/day and 550 pounds/day for PM2.5. The APCD establishes construction emission
20 thresholds at 75 pounds/day of ROG, 100 pounds/day of NOx, and 150 pounds/day of PM10.

21 147. The construction, operation, decommissioning and restoration activities associated with
22 the Project have the potential to cause emissions that are precursors to ozone and fine particulates, and
23 that have the potential to exceed the APDC’s thresholds of significance triggering the requirement of an
24 EIR.

25 148. The Hyperscale AI Data Center Project is located adjacent to sensitive receptors (two
26 nearby residential neighborhoods within 200 feet).

27 149. Air toxic and criteria pollutant emissions result from grading activities, construction
28 equipment, and construction worker vehicle trips. According to the record, the Project’s proposed

1 earthwork results in an estimated net deficit of 6,307 cubic yards (raw) or over 14,000 cubic yards of
2 soil after adjustments for shrinkage and compaction. This deficit is estimated to require more than 1,000
3 truckloads to transport soil. The emissions from the equipment, worker vehicle trips, and truckloads
4 have the potential to exceed the APCD thresholds of significance for ROG and NOx and includes Diesel
5 Particulate Matter (“DPM”). DPM includes toxic chemicals like polycyclic aromatic hydrocarbons,
6 benzene, and formaldehyde. Therefore, the construction of the Project has the potential to exceed the
7 APCD’s thresholds of significance, and expose sensitive receptors to substantial pollutant concentrations
8 and result in emissions that adversely affect a substantial number of people.

9 150. The proposed cut and fill activities are estimated to result in moving approximately
10 170,000 cubic yards of soil. Applying EPA’s AP-42 emission factors, it is estimated that the potential
11 emissions are over 200 pounds/day of PM10. This would exceed the APCD’s threshold of significance
12 for PM10, and require an EIR.

13 151. The Generators alone have the potential to constitute a major stationary source of
14 emissions that exceeds the APCD’s CEQA thresholds of significance for the Project’s operation. Natural
15 gas generators emit NOx, carbon monoxide (“CO”), VOCs, methane, formaldehyde, SO2, and PM. The
16 use of natural gas as fuel for the Generators has the potential to increase cancer or hazard risks.

17 152. The 132 Generators have the potential to emit 100 tons per year of NOx and VOCs and
18 therefore, constitute a major stationary source under Title V of the Federal Clean Air Act. The
19 Applicants have indicated that they will operate the 132 engines to generate electricity for the
20 Hyperscale AI Data Center in non-emergency situations if California Independent System Operator
21 (“CAISO”) energy is unavailable for purchase. Based on data provided by Caterpillar and public
22 comments by a toxicologist if all 132 Generators operate 24-hours they would emit an estimated 28,800
23 pounds/day or 14.4 tons/day of NOx (5,256 tons/year of NOx) and 20,211 pounds/day or 10.11 tons/day
24 of VOCs (3,690.15 tons/year of VOCs). This amount of emissions far exceeds the APCD’s thresholds of
25 significance for NOx and ROG operational emissions, and there is the potential for the operation of the
26 Project to expose sensitive receptors to substantial pollutant concentrations and to adversely affect a
27 substantial number of people. Because the Project’s potential to emit exceeds the APCD’s thresholds of
28 significance, the Project has the potential to obstruct implementation of the applicable SIPs.

1 153. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
2 cause significant impacts and an EIR is required.

3 **GREENHOUSE GAS EMISSIONS IMPACTS**

4 154. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
5 cause significant environmental impacts if it would: “[g]enerate greenhouse gas emissions, either
6 directly or indirectly, that may have a significant impact on the environment” or “[c]onflict with an
7 applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse
8 gases.” The County relies on the thresholds of significance adopted by the South Coast Air Quality
9 Management District (“SCAQMD”), which is 10,000 metric tons of carbon dioxide equivalent
10 (“MTCO_{2e}”) per year.

11 155. The Project will emit greenhouse gas emissions including methane emissions from
12 generators, refrigerants used in equipment for air conditioning, treating wastewater, and electrical
13 energy generation. The Project’s electrical demand is expected to be met by natural gas Generators or
14 partial fossil-fueled power grid and therefore, has the potential to exceed 10,000 MTCO_{2e} per year
15 significance threshold.

16 156. Imperial County addresses climate change through its Conservation and Open Space
17 Element of the General Plan. This Element includes: “Objective 7.1: Ensure that all project and facilities
18 comply with current Federal, State, and local requirements for attainment of air quality objectives.”

19 157. The California Air Resources Board (“CARB”) adopted the 2022 Scoping Plan for
20 Achieving Carbon Neutrality (“2022 Scoping Plan”) that lays out a path to achieve targets for carbon
21 neutrality and reduce anthropogenic GHG emissions by 85 percent below 1990 levels no later than 2045,
22 as directed by Assembly Bill 1279. Appendix D of the 2022 Scoping Plan includes recommendations to
23 reduce GHG emissions through increased energy efficiency and renewable energy production. The
24 Project’s significant consumption of electrical energy renders it inconsistent with the 2022 Scoping Plan.

25 158. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
26 cause significant impacts and an EIR is required.

1 **NOISE IMPACTS**

2 159. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
3 cause significant environmental impacts if it would: (1) expose “persons to or generation of noise levels
4 in excess of standards established in the local general plan or noise ordinance, or applicable standards of
5 other agencies”; (2) expose “persons to or generation of excessive groundborne vibration or
6 groundborne noise levels”; (3) cause “substantial permanent increase in ambient noise levels in the
7 project vicinity above levels existing without the project”; or (4) cause “substantial temporary or
8 periodic increase in ambient noise levels in the project vicinity above levels existing without the
9 project”.

10 160. The County General Plan, Noise Element, establishes the following as thresholds of
11 significance.

12 a. “If the future noise level after the project is completed will be within the ‘normally
13 acceptable’ noise levels shown in the Noise/Land Use Compatibility Guidelines, but will result
14 in an increase of 5 dB CNEL or greater, the project will have a potentially significant noise
15 impact and mitigation measures must be considered.

16 b. If the future noise level after the project is completed will be greater than the ‘normally
17 acceptable’ noise levels shown in the Noise/Land Use Compatibility Guidelines, a noise increase
18 of 3 dB CNEL or greater shall be considered a potentially significant noise impact and mitigation
19 measures must be considered.”

20 161. The Project has the potential to cause significant noise pollution above the 3 and 5 dB
21 CNEL thresholds. The Hyperscale AI Data Center is a stationary noise source that will significantly
22 contribute to the community noise environment. These types of hyperscale AI data centers are known to
23 cause significant noise from massive cooling fans and cooling towers, HVAC systems, backup
24 generators, technical equipment. The noise includes constant and incessant humming, vibration, as well
25 as loud, persistent sounds measured at levels between 75-99+ dBA. The noise causes sleep disturbances,
26 health issues, and community irritation and stress. The persistent noise also disrupts and affects the
27 behavior of pets and wildlife.

1 162. There are sensitive receptors (residences) located adjacent to the Project within 200 feet
2 that have the potential to be affected by noise from the Hyperscale AI Data Center Project. The County
3 General Plan, Noise Element, also identifies riparian bird species as sensitive to noise. There are riparian
4 bird species around irrigation canals and drainages. The Date Canal is adjacent to the Property, and
5 therefore, riparian bird species are potentially affected by the Project’s noise.

6 163. The County General Plan, Noise Element, requires a noise analysis of proposed
7 discretionary projects which may generate excessive noise, specifically for projects like the Hyperscale
8 AI Data Center that has the potential to result in a significant increase in noise levels affecting sensitive
9 receptors. The analysis has not been conducted.

10 164. When an acoustical analysis of a proposed project is required, as with this Project, the
11 County is required to identify and evaluate potential noise/land use conflicts that could result from the
12 implementation of the project. Pursuant to the County General Plan, Noise Element, Table 7, the Project
13 is likely not compatible with the adjacent residential areas. Projects which result in noise levels that
14 exceed the “Normally Acceptable” criteria of the Noise/Land Use Compatibility Guidelines shall
15 include mitigation measures to eliminate or reduce the adverse noise impacts to an acceptable level.

16 165. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
17 cause significant impacts and an EIR is required.

18 **TRANSPORTATION/TRAFFIC IMPACTS**

19 166. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
20 cause significant environmental impacts if it would: (1) “[c]onflict with a program plan, ordinance or
21 policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities”;
22 (2) “conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)”;
23 or (3) “[r]esult in inadequate emergency access.”

24 167. The Governor’s Office of Planning and Research’s Technical Advisory on Evaluating
25 Transportation Impacts in CEQA dated December 2018 recommends as a threshold of significance for
26 the vehicle miles traveled (“VMT”) analysis a per capita or per employee VMT that is fifteen percent
27 below that of existing development.

1 168. According to the record, in September, 2025, the Applicants had a traffic study
2 prepared that evaluated the change in levels of service (“LOS”) at key intersections caused by the
3 Hyperscale AI Data Center Project. LOS designations range from A to F, with LOS A representing the
4 best operating conditions and LOS F representing the worst operating conditions. According to the
5 traffic study the Data Center Project will generate 941 average daily trips (“ADT”), with 105 AM peak
6 hour trips (58 inbound/47 outbound) and 86 PM peak hour trips (26 inbound/60 outbound). The traffic
7 study concludes that the SR-86 / Project Driveway/ Puerto Vallarta Avenue intersection will operate at
8 LOS F with a morning delay of more than one minute per vehicle and an evening delay of more than one
9 and one half minutes per vehicle. The County’s 2007 Traffic Study and Report Policy and the General
10 Plan, Circulation and Scenic Highways Element (Objective 1.12), indicates that degrading an existing
11 road to below LOS C could be considered a significant impact requiring mitigation. Therefore, the
12 Project conflicts with a program, plan, and policy addressing the circulation system.

13 169. Grading is estimated to require 1,000 truckloads trips to the Property. This number of
14 trips has the potential to impact the circulation system, degrade intersection LOS, and increase VMT in
15 conflict with CEQA Guidelines section 15064.3.

16 170. The regional VMT per employee for the Imperial County region is estimated to be
17 18.59 VMT per employee per City of El Centro General Plan Update Transportation Impact Study.
18 Worker and vendor trips will generate VMT and therefore the Project would conflict and be inconsistent
19 with CEQA Guidelines section 15064.3.

20 171. According to the record, the County told the Applicants that their site plan does not
21 provide the number of parking spaces required by the County Code, and that a parking variance was
22 required. Without enough off-street parking, motorists may park on nearby residential streets. When
23 parking is insufficient for the demand, drivers often “cruise” or circle blocks looking for a space. This
24 contributes significantly to local traffic congestion, increased VMT and emissions, and a higher risk of
25 accidents. The increase in VMT conflicts with CEQA Guidelines section 15064.3 and could cause
26 inadequate emergency access on streets congested with drivers looking for parking spaces.

27 172. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
28 cause significant impacts and an EIR is required.

1 **AESTHETIC IMPACTS**

2 173. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
3 cause significant environmental impacts if it would “create[s] a new source of substantial light or glare
4 which would adversely affect day or nighttime views in the area.” The Hyperscale AI Data Center will
5 fundamentally change and degrade the visual character of the area.

6 174. Hyperscale AI data centers contribute to light pollution due to 24/7 exterior security
7 lighting. Improperly shielded exterior lights create glare that can impair vision for nearby drivers or
8 cause discomfort for residents in rural or dark-sky areas.

9 175. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
10 cause significant impacts and an EIR is required.

11 **PUBLIC SERVICE IMPACTS**

12 176. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
13 cause significant environmental impacts if the project results in the need for “new or physically altered
14 governmental facilities, the construction of which could cause significant environmental impacts, in
15 order to maintain acceptable service ratios, response times or other performance objectives for any of the
16 public services.”

17 177. The County General Plan, Land Use Element, includes the following applicable Goals
18 and Objectives:

19 a. Objective 3.1 - Maintain and improve the quality of life, the protection of property and
20 the public health, safety, and welfare in Imperial County.

21 b. Objective 4.3 - Maintain and require compatible land uses within the existing
22 communities.

23 c. Objective 4.4 - Limit the establishment of non-residential uses in predominantly
24 residential neighborhoods and require effective buffers when appropriate non-residential uses are
25 proposed.

26 178. The Project’s location next to residences is inconsistent with General Plan goals and
27 policies by not including public health and safety considerations in land use planning or reducing fire
28 hazards by the Project’s design.

1 179. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
2 cause significant impacts and an EIR is required.

3 ENERGY IMPACTS

4 180. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
5 cause significant environmental impacts if it would: (1) cause impacts “due to wasteful, inefficient, or
6 unnecessary consumption of energy resources, during project construction or operation”; or (2)
7 “[c]onflict with or obstruct a state or local plan for renewable energy or energy efficiency.”

8 181. The Project’s 300 MW energy demand has the potential to strain local power grids and
9 increase reliance on fossil fuels – see below.

10 182. According to the record, in May 2025, IID Transmission Planning Department prepared
11 a feasibility study for the Hyperscale AI Data Center Project (“Feasibility Study”). The Feasibility Study
12 was prepared in response to a request from IVCM for the interconnection of the Hyperscale AI Data
13 Center Project to the IID System at the 230kV ‘S’ line between IID’s El Centro switching station
14 (“ECSS”) and San Diego Gas & Electric’s (“SDG&E”) Imperial Valley substation.

15 183. The Feasibility Study concluded that at a 500 MW load thermal and voltage violations
16 were found under the following outage: “P1: Loss of 230kV ‘S’ One between 2320 kV Imperial Valley
17 Substation and 230 kV IVCM Substation.”

18 184. According to the record, the Applicants requested IID conduct a System Impact Study
19 for the transmission interconnect of the Hyperscale AI Data Center Project to the IID System at the
20 230kV ‘S’ line between IID’s ECSS and SDG&E’s Imperial Valley substation (“‘S’ Line System Impact
21 Study”) As part of the ‘S’ Line System Impact Study, the IID evaluated the interconnection of 250 MW
22 of load to assess potential system impacts and infrastructure requirements. In July 2025, IID
23 Transmission Planning Department released the ‘S’ Line System Impact Study that deemed the
24 Hyperscale AI Data Center Project feasible. However, IID assumed for both the Feasibility Study and
25 ‘S’ Line System Impact Study that the majority of the power required to serve the load demanded by the
26 Hyperscale AI Data Center Project would be imported because IID concluded that it did not have the
27 capability to reliably support a large-scale load requiring continuous 24-hour service with existing
28 resources. IID did not commit to serve the requested load.

1 185. According to the record, the Applicants also requested IID conduct a System Impact
2 Study for the transmission interconnect to IID’s 92 kV ‘R’ Line between IID’s ECSS and Central
3 substation (“‘R’ Line System Impact Study”). As part of the ‘R’ Line System Impact Study, the IID
4 evaluated the interconnection of 80 MW of load to assess potential system impacts and infrastructure
5 requirements.

6 186. In October 2025, IID Transmission Planning Department released the ‘R’ Line System
7 Impact Study that concluded that the Hyperscale AI Data Center Project caused buses in the base case to
8 experience voltage exceedances or deviations with respect to certain voltage criteria and thermal
9 violations in IID’s systems (92kV ‘R’ Line Dixieland Prison to Central and 92 kV ‘R’ Line Dixieland to
10 Dixieland Prison) under a heavy summer peak and a heavy summer peak solar reduced 20% modeling
11 analyses. The Hyperscale AI Data Center Project caused buses in the base case to experience voltage
12 exceedances or deviations with respect to certain voltage criteria under a light spring solar reduced 40%
13 modeling analysis. As a result, IID concluded that the Hyperscale AI Data Center Project can only be
14 deemed feasible with transmission infrastructure upgrades. IID noted that it currently does not have the
15 capability to reliably support a large-scale load requiring continuous 24-hour service, and IID was not
16 making a commitment to serve the requested load.

17 187. As there is no certain electrical power source for the Hyperscale AI Data Center
18 Project, IVCM requested IID to procure power directly from CAISO on IVCM’s behalf. IID has not
19 approved the proposal. In an email dated October 14, 2025, from IID General Manager to Sebastian
20 Rucci, IID states that IVCM’s “the proposed service plan does not comply with the IID Open Access
21 Transmission Tariff (OATT).” “The OATT requires project developers to secure sufficient transmission
22 capacity to serve wholesale loads within IID’s network transmission system.” IID also states that it
23 already has over 3,000 MW of transmission service reservations (most with executed generator
24 interconnection agreements and approved environmental entitlements) that are in the queue for access to
25 CAISO. When power cannot be purchased from CAISO, IVCM intends to use the on-site Generators
26 and the BESS to provide the necessary 300 MW electrical power.

27 188. The Project’s energy demand that could lead to higher energy costs for residents and
28 reliability issues. High energy demand from sources like data centers is a major factor in higher energy

1 costs for residents and a cause of electricity grid reliability issues for consumers. The strain on the grid
2 means a higher risk of system instability, including potential capacity shortages, voltage spikes and dips
3 (which can damage appliances), and even forced blackouts if demand consistently outpaces supply.

4 189. Data centers significantly contribute to the urban heat island (“UHI”) effect by
5 releasing vast amounts of waste heat into the environment, raising local temperatures, worsening air
6 quality, and increasing energy demand for cooling in nearby buildings. This heat, a byproduct of intense
7 server operations, creates localized hot spots in an area that already experiences extreme heat.

8 190. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
9 cause significant impacts and an EIR is required.

10 **HYDROLOGY/WATER QUALITY IMPACTS**

11 191. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
12 cause significant environmental impacts if it would: (1) “[v]iolate any water quality standards or waste
13 discharge requirements or otherwise substantially degrade surface or ground water quality”; (2) “create
14 or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage
15 systems or provide substantial additional sources of polluted runoff”; or (3) “[c]onflict with or obstruct
16 implementation of a water quality control plan or sustainable groundwater management plan.”

17 192. According to the record, on November 13, 2025, IID informed the County that its
18 Water Department facilities that could be impacted by the Project include the North Date Canal and the
19 Central Drain.

20 193. The Project has the potential to affect surface water quality. During the construction
21 phase, sedimentation and erosion can occur because of tracking from earthmoving equipment, erosion
22 and subsequent runoff of soil, or improperly designed stockpiles. Many different types of hazardous
23 compounds will be used during the construction phase. If constituents become entrained in storm water
24 runoff, the polluted runoff could sheet flow from the Project to the IID drains and could result in the
25 accumulation of these pollutants in the receiving waters.

26 194. The development of 74 acres will increase water runoff from more impervious surfaces
27 and lead to the potential pollution of the Date Canal. Runoff picks up pollutants such as sediment, oil,
28 grease, and chemicals from paved surfaces and can carry them untreated into local canal harming

1 aquatic habitats and agricultural resources. As runoff flows over developed surfaces, water can entrain a
2 variety of potential pollutants including, but not limited to, oil and grease, pesticides, trace metals, and
3 nutrients. These pollutants can become suspended in runoff and carried to receiving waters. Since the
4 Project site is located in unincorporated Imperial County and not subject to a Municipal Separate Storm
5 Sewer System or National Pollutant Discharge Elimination System (“NPDES”) General Industrial
6 Permit, there is no regulatory mechanism in place to address post-construction water quality concerns.

7 195. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
8 cause significant impacts and an EIR is required.

9 UTILITIES AND SERVICE SYSTEMS

10 196. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
11 cause significant environmental impacts if it would: (1) “[r]equire or result in the relocation or
12 construction of new or expanded water, wastewater treatment or storm water drainage, electric power,
13 natural gas, or telecommunications facilities, the construction or relocation of which could cause
14 significant environmental effects”; (2) “[h]ave sufficient water supplies available to serve the project
15 and reasonably foreseeable future development during normal, dry and multiple dry years”; or (3)
16 “[r]esult in a determination by the wastewater treatment provider which serves or may serve the project
17 that it has adequate capacity to serve the project’s projected demand in addition to the provider’s
18 existing commitments.”

19 197. Significant amounts of water will be required for dust control during grading. The
20 earthwork is estimated to involve cuts of 81,920 cubic yards and fill of 88,227 cubic yards. A standard
21 benchmark for combined dust control and compaction is roughly 10 to 25 gallons per cubic yard moved.
22 The total estimated water usage is between 913,000 and 2,280,000 gallons of water.

23 198. According to the record, the Applicants contend the Project will require 750,000
24 gallons of water per day (840 acre feet a year (“AFY”). On information and belief, the Applicants are
25 seeking reclaimed water to serve the Project.

26 199. The City receives 4,800 acre feet a year of Colorado River water from IID. This amount
27 of water is not sufficient to supply the Hyperscale AI Data Center Project.

28 200. The City’s wastewater treatment facility is not a water reclamation facility. Therefore,

1 the City cannot currently supply the Hyperscale AI Data Center Project with reclaimed water. In order
2 for the City to supply reclaimed water to the Hyperscale AI Data Center Project, its wastewater
3 treatment system would require significant modifications to generate reclaimed water.

4 201. On information and belief, the Applicants also requested the City of El Centro provide
5 reclaimed wastewater to the Hyperscale AI Data Center Project. On December 12, 2025, the City posted
6 a statement in which it stated that: “The City of El Centro wishes to clarify that no agreement of any
7 kind has been entered into with any data center developer. The City has not received or approved an
8 application, has not authorized the use of reclaimed or wastewater, and has not committed to
9 constructing infrastructure to support the project.”

10 202. The Project will generate a significant amount of wastewater, which can be warmer
11 than ambient water, that will require advanced, on-site wastewater treatment to manage concentrated
12 pollutants like salts and minerals, biocides, corrosion inhibitors and heavy metals.

13 203. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
14 cause significant impacts and an EIR is required.

15 **BIOLOGICAL RESOURCE IMPACTS**

16 204. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
17 cause significant environmental impacts if it would have “a substantial adverse effect, either directly or
18 through habitat modifications, on any species identified as a candidate, sensitive, or special status
19 species in local or regional plans, policies, or regulations, or by the California Department of Fish and
20 Game or U.S. Fish and Wildlife Service.”

21 205. Vacant land in Imperial County can potentially provide valuable habitat for special-
22 status and critical species, particularly birds.

23 206. Imperial Valley supports over 60% of California’s Burrowing Owls, making it a critical
24 refuge, but habitat loss is a major concern. The Date Canal is adjacent to the Property and Burrowing
25 Owls are highly dependent on irrigation canals for nesting habitat. On October 10, 2024, the California
26 Fish and Game Commission approved a petition to proceed with candidacy to list the western burrowing
27 owl (*Athene cunicularia*, burrowing owl) as a threatened or endangered species in California under the
28 California Endangered Species Act (“CESA”). Under CESA, candidate species receive the same

1 protections as officially listed species until a final decision is made. Take of individual Burrowing Owls
2 and their nests is prohibited by sections 3503, 3503.5, and 3513. Take is defined in Fish and Game Code
3 section 86 as “hunt, pursue, catch, capture or kill, or attempt to hunt, pursue, catch, capture or kill.”

4 207. The California Department of Fish and Wildlife (“CDFW”) is California’s Trustee
5 Agency for fish and wildlife resources and holds those resources in trust by statute for all the people of
6 the State. Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Res. Code, § 21070; CEQA Guidelines, §
7 15386(a). Yet, CDFW was not consulted before issuing the Approvals.

8 208. On information and belief, a Burrowing Owl survey was conducted on the Property on
9 December 3, 2025, during which two Burrowing Owls were observed. This number is likely
10 underestimated, as the survey was not a protocol level breeding season survey. Protocol surveys must be
11 conducted. The documented existence of Burrowing Owls on the Property demonstrate that the
12 Proposed Project has the potential to cause direct impacts to Burrowing Owls including unintentional
13 clearing or trampling of occupied habitat and/or destruction of Burrowing Owl dens, eggs, young, or
14 adults, which would be significant. Potential indirect impacts to Burrowing Owls include the generation
15 of fugitive dust that can degrade habitat and result in health implications for wildlife species; noise and
16 vibration that can stress wildlife species or cause them to leave an area of otherwise suitable habitat;
17 increased human presence, which can disrupt daily activities of wildlife and cause them to leave an area;
18 and release of chemical pollutants, such as from oil leaks from construction vehicles and machinery.
19 These impacts can be significant.

20 209. Two of California’s three flat-tailed horned lizard populations are in Imperial County,
21 living in desert flats and washes, and are designated as a Species of Special Concern. Peirson’s
22 Milkvetch is an endangered plant found in the Imperial Valley. The Crissal Thrasher and Yellow-
23 breasted Chat are California Species of Special Concern found in the Valley’s riparian areas. The Desert
24 Pupfish uses agricultural drains and canals; there is a canal on the Property. Detailed biological surveys
25 are required to identify species and occupied habitats.

26 210. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
27 cause significant impacts and an EIR is required.

28

1 **LAND USE PLANNING IMPACTS**

2 211. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
3 cause significant environmental impacts if it would “[c]ause a significant environmental impact due to a
4 conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating
5 an environmental effect.”

6 212. A project is inconsistent if it conflicts with a general plan policy that is fundamental,
7 mandatory, and clear. *Families Unafraid to Uphold Rural Etc. County v. Board of Supervisors* (1998) 62
8 Cal.App.4th 1332, 1341-42. The most fundamental policies pertain to Land Use.

9 213. Changing the zone to permit the Hyperscale AI Data Center Project is inconsistent with
10 the County General Plan, the City’s General Plan, and the ALUCP.

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

16 b. The Hyperscale AI Data Center Project is inconsistent with Land Use Element, objective
17 3.1, protecting property and the public health, safety and welfare; objective 4.3, maintaining and
18 requiring compatible land uses within the existing communities; and objective 4.4, limiting the
19 establishment of non-residential uses in predominantly residential neighborhoods.

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

24 d. The Hyperscale AI Data Center Project is inconsistent with Conservation/Open Space
25 Element: Objectives 6.1, and 7.1.

26 e. The Data Center Project is inconsistent with Agricultural Element: Objectives 1.8, 3.1,
27 3.6, and 4.1.

1 f. The Hyperscale AI Data Center Project is inconsistent with Circulation Element:
2 Objectives 1.3, 1.11, 1.12, 1.13, 2.4, 2.5, 3.8, and 5.3.

3 g. The Hyperscale AI Data Center Project is inconsistent with Noise Element: Objectives
4 1.3, 1.5, and 2.3.

5 h. The Hyperscale AI Data Center Project is inconsistent with Water Element: Objectives
6 1.2, and 1.3.

7 214. The Property is designated by the City in the General Plan as Rail Served Industrial.
8 This designation provides for industrial/agricultural uses that require rail access. The Hyperscale AI
9 Data Center Project as currently proposed is not compatible with the City’s General Plan designation.
10 Hyperscale AI data centers are not listed as permitted uses in this zone.

11 215. The Project is potentially inconsistent with ALUCP because of: (1) glare or distracting
12 lights which could be mistaken for airport lights; (2) sources of dust, steam, or smoke that may impair
13 pilot visibility; and (3) sources of electrical interference with aircraft communications or navigation.

14 216. The development of the Hyperscale AI Data Center Project could also lead to blight.
15 This is because the County is permitting the Project to be constructed before there are enforceable
16 agreements in place that ensure key infrastructure, such as water and electrical power, are available to
17 serve the Project when it is ready to be occupied. Vacant and abandoned buildings become
18 unmaintained, derelict, or structurally unsafe, often attracting crime, creating fire hazards, and
19 significantly lowering surrounding property values.

20 217. For all of the above reasons, the Hyperscale AI Data Center Project has the potential to
21 cause significant impacts and an EIR is required.

22 **AGRICULTURAL IMPACTS**

23 218. Under CEQA Appendix G the Hyperscale AI Data Center Project has the potential to
24 cause significant environmental impacts if it “conflict[s] with existing zoning for agricultural use.”

25 219. Agriculture has been and is the single most important economic activity of Imperial
26 County. The County’s General Plan calls for the primary use of any parcel designated “Agriculture” on
27 the Land Use Plan to be maintained for agricultural production. Further, where a development permit is
28 sought adjacent to agricultural land use, as here, the agricultural operations are required to be protected

1 with appropriate buffer zones, not merged out of existence.

2 220. A portion of the Property is zoned A-2 for agricultural uses. Because the Project will
3 eliminate the potential for agriculture on A-2 zoned land, the Project conflicts with existing agricultural
4 use zoning. Therefore, the Hyperscale AI Data Center Project has the potential to cause significant
5 impacts and an EIR is required.

6 **CUMULATIVE IMPACTS**

7 221. CEQA Guidelines section 15355 defines a cumulative impact as “two or more
8 individual effects which, when considered together, are considerable or which compound or increase
9 other environmental impacts.”

10 222. According to the record, IID has received multiple data center inquiries ranging from
11 30MW to 1GW per location. IVCM has another hyperscale 250 MW data center proposed to be located
12 near Calipatria Switch. Calethos is planning to build up to two million square feet of data center
13 facilities on a 315-acre site at the intersection of Highway 111 and Sinclair Road. According to an email
14 dated August 25, 2025, from Mr. Sebastian Rucci to Mr. Jim Minnick, “Once the Lithium-specific plan
15 is approved, we will apply to the County for the 250 MW data center using the ministerial process.”
16 Therefore, there are other hyperscale AI data centers proposed to be located in Imperial County, and the
17 cumulative impacts caused these projects are required to be analyzed under CEQA.

18 As above, the Project has the potential to cause significant impacts. Therefore, the Project, along
19 with the other proposed hyperscale AI data centers, could cause cumulative impacts, and an EIR is
20 required. The County violated CEQA by not certifying an EIR prior to issuance of the Approvals.

21 **SIXTH CAUSE OF ACTION**

22 **(Writ of Mandate and Writ of Administrative Mandamus for**

23 **Violations of the California Subdivision Map Act and Imperial County, Title 9, Division**
24 **8, Chapter 8 – Against All Respondents/Defendants and DOES 1-20 inclusive and ROES**
25 **1-20 inclusive)**

26 223. Petitioner hereby realleges and incorporates by reference the preceding paragraphs in
27 their entirety.

1 224. The County also violated the State Subdivision Map Act and County Code regarding its
2 approval of the Lot Merger and action on Appeals #25-0004 and #25-005. The Board of Supervisors
3 never made the findings required by law. (*Topanga Association for a Scenic Community v. County of*
4 *Los Angeles* (1974) 11 Cal.3d 506, 512-513.) There is no substantial evidence to support any of the
5 required findings for the Lot Merger.

6 225. There are two different types of lot mergers; either initiated by the County or by a
7 property owner. The Applicants initiated the Lot Merger as property owners. The County is authorized
8 by the State Subdivision Map Act, Government Code section 66499.20.3, to permit lot mergers. The
9 County regulates property owner-initiated lot mergers under County Code, Chapter 8.

10 226. County Code, section 90808.00 only provides for lot mergers to be initiated by a
11 “record property owner.” The Subdivision Map Act, Government Code, section 66499.20.3, does not
12 authorize the merger on parcels that are not under common ownership.

13 227. On information and belief, the Applicants initiated the lot merger as multiple property
14 owners, even though according to the County Assessor’s Office, they are not the owners of any of five
15 parcels or Leimgruber Road. In the application, IVCM incorrectly certified that it was the Property
16 owner of the five parcels to be merged. The application violated County Code, section 90808.00,
17 because it is made by more than one property owner and the Applicants are not the record owners; and it
18 violated Government Code, section 66499.20.3, because the parcels and Road are not under common
19 ownership. The County violated State law and the County Code by processing the application.

20 228. On December 16, 2025, Public Works submitted comments to the County’s Planning
21 Department requiring that the Road Commissioner and Board of Supervisors first approve the vacation
22 of Leimgruber Road before the grading plans are accepted.

23 229. County consent as the landowner of Leimgruber Road has not been properly provided
24 as it requires Board of Supervisor discretionary approval of a road vacation under the Streets and
25 Highway Code and transfer of the Road to the private owner of the neighboring land first.

26 230. Imposing a condition that requires all the parcels to be deeded under the same
27 ownership after County approval and before final map recordation does not comply with the Subdivision
28 Map Act because, under Government Code, section 66499.20.3 the County is only authorized under

1 State law to approve the merger of parcels that are under common ownership. (See also ICMC, §
2 90808.03 [requiring lot mergers to conform to State law].) The County cannot approve in the first
3 instance a merger of parcels with different landowners and defer compliance with State law until a later
4 date. The County’s lot merger ordinance and lot merger actions must be consistent with the Subdivision
5 Map Act.

6 231. The Subdivision Map Act, Government Code, section 66499.20.3, does not authorize
7 the merger of parcels that are not contiguous.

8 232. County Code, section 90808.00 states that a “Merger can only be considered where:

9 a. All the lots or parcels are contiguous.

10 b. The lots or parcels were created by a parcel map or tract map in compliance with the
11 Subdivision Map Act and Imperial County Ordinance at the time of creation, or were legal lots
12 prior to enactment of the Subdivision Map Act.

13 c. The lots or parcels cannot be separated by or affected by an easement, right-of-way, road,
14 alley or canal (including public utility easements).

15 d. Affect or restrict any access to lots or parcels.”

16 233. County Code, section 90808.03 requires that lot mergers be consistent with the
17 following:

18 a. “All the lots or parcels are contiguous.

19 b. Whether the lot merger conforms to State law and County Ordinance.

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

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

25 e. The parcel as merged will not be deprived access as a result of the merger.

26 f. Access to the adjoining parcels will not be restricted by the merger.

27 g. The parcel as merged will not conflict with the location of any existing structures on the
28 property.

1 h. No new lot or lots are created through the merger.”

2 Leimgruber Road bisects the parcels so they are not contiguous. Therefore, the lot merger violates
3 Government Code, section 66499.20.3, and County Code sections 90808.00(A) and 90808.03(A).

4 234. The County Code sections 90808.00 and 90808.03 prohibits the consideration of lot
5 mergers that are separated or affected by an easement, right-of-way, road, alley or canal (including
6 public utility easements).

7 235. On information and belief, according to a preliminary title report dated July 2025, the
8 following easements exist on APN 044-220-007: to remove bushes; for concrete lined canals, and
9 telephone and electrical power lines; for the Date Canal; and for railroad tracks.

10 236. On information and belief, according to a preliminary title report dated December 2024,
11 the following easements exist on APN 044-220-042: to maintain towers or other supports with wires and
12 necessary appurtenances; for a public road; to construct, operate and maintain a power line; for
13 irrigation, waste or drainage canals, or power or telephone lines; for a public highway; and for the
14 installation of water pipes.

15 237. On information and belief, according to a preliminary title report dated December 2024,
16 the following easements exist on APN 044-220-044 and 044-220-045: to construct, operate and maintain
17 a power line and necessary appurtenances; for irrigation, waste or drainage canals, or power or
18 telephone lines; for an underground pipeline or open ditch; for underground utilities, as well as covenant
19 to restrict the use of the land and environmental restrictions.

20 238. On information and belief, according to a preliminary title report dated October 2024,
21 the following easements exist on APN 044-220-046: to erect and maintain towers or other supports with
22 wires; for a public road and incidental purposes; to construct, operate and maintain a power line and
23 necessary appurtenances irrigation, waste or drainage canals; for power or telephone lines and
24 incidental purposes; for the Date Canal; and for a natural gas pipeline.

25 239. According to the record, on November 13, 2025, IID submitted comments to the
26 Planning Department on the Lot Merger. Specifically, IID imposed the following requirements:

27 a. Public utility easements over all private and public roads and additional ten (10) feet in
28 width on both side of the private and public roads shall be dedicated to IID for the construction,

1 operation, and maintenance of its electrical infrastructure.

2 b. Any new, relocated, modified or reconstructed IID facilities required for and by the
3 project (which may include but is not limited to the dedication of real property for the purpose of
4 siting an electrical utility substations to support the project, the cost of acquisition and dedication
5 of rights of way and/or easements for the construction of electrical transmission and/or
6 distribution lines and ancillary facilities associated with the conveyance of energy service) are to
7 be included as part of the project's CEQA and/or NEPA documentation, environmental impact
8 analysis and mitigation.

9 c. The applicant will be required to provide rights of ways and easements for any proposed
10 power line extensions and/or any other infrastructure needed to serve the project. In addition, the
11 necessary access to allow for continued operation and maintenance of any IID facilities located
12 on adjoining properties where no public access exists.

13 d. Substations and switchyards shall be located on property that will be transferred to IID in
14 fee simple ownership with legal access.

15 IID's requirement that the substations and switchyards shall be located on property that will be
16 transferred to IID in fee simple ownership with legal access means that new lots will be created in
17 violation of County Code, section 90808.03(H).

18 240. On December 18, 2025, the Planning Commission held a public hearing on the Lot
19 Merger application. The Planning Commission's motion to approve the Lot Merger failed. The Planning
20 Commission passed a motion requiring the applicant to further discuss the Hyperscale AI Data Center
21 Project with the City of Imperial, City of El Centro, and the community before bringing the item back to
22 the Planning Commission for consideration. As set forth in the above paragraphs, the Planning
23 Commission was required to deny the Lot Merger because it violated the State Subdivision Map Act and
24 County Code.

25 241. The Planning Commission's action is ripe for adjudication because the Applicants
26 appealed the decision to the Board of Supervisors so the Planning Commission has lost jurisdiction to
27 act on the application.

28

1 247. The Property cannot be merged without an accompanying rezoning because the parcels
2 have three different zoning designations, and Leimgruber Road has no zoning designation. The County
3 Code, section 90501.01 provides that every parcel shall be classified in only one base zone. Neither the
4 Subdivision Map Act nor the County Code permits the rezoning of the Property through a lot merger
5 approval. Therefore, a rezoning was required with the Lot Merger.

6 248. Further, Government Code Section 65853 requires that any amendment to a zoning
7 ordinance that changes property from one zone to another must be adopted following specific
8 procedures set forth in Government Code sections 65854 through 65857. This includes holding a public
9 hearing by the Planning Commission on the proposed zoning amendment, with provision of notice at
10 least 20 days before the hearing, and preparation of a staff report on the rezoning to be included in the
11 record of the hearing. (§§ 65854, 65090, 65091, 65804 (d).)

12 249. After the planning commission’s hearing, the legislative body—here, the Board of
13 Supervisors—must then hold a public hearing to act on the commission’s recommendation, pursuant to
14 Government Code § 65856. If the legislative body proposes any modification to the rezoning that the
15 planning commission did not previously consider at its hearing, that modification must be referred back
16 to the planning commission for report and recommendation before the legislative body can act.

17 250. The five parcels (identified as Assessor Parcel Numbers 044-220-007, 044-220-042,
18 044-220-044, 044-220-045, and 044-220-046) comprising the Property have different zoning: The
19 parcels are zoned A-2-U (General Agriculture within Urban Boundaries), M-1-N-U (Light Industrial, No
20 Residential within Urban Boundaries), and M-2-U (Medium Industrial within Urban Boundaries).
21 Leimgruber Road has no zoning designation.

22 251. On November 3, 2025, the County sent a request for comments to the City for the
23 proposed Lot Merger. The County stated that it intended to rezone the entire Property, including
24 Leimgruber Road, to the M-1 N-U zoning designation as part of the Lot Merger.

25 252. According to the record, the Applicants, in their Lot Merger application, which was
26 sent to the County via an October 31, 2025, email, proposed that the entire merged Property be rezoned
27 M-1-N-U (Light Industrial, No Residential within Urban Boundaries).
28

1 **NINTH CAUSE OF ACTION**
2 **(Writ of Mandate and Writ of Administrative Mandamus for**
3 **CEQA Violations – BOARD OF SUPERVISORS LACKED AUTHORITY TO**
4 **APPROVE LOT MERGER– Against**
5 **All Respondents/Defendants and DOES 1-20 inclusive and ROES 1-20 inclusive)**

6 259. Petitioner hereby realleges and incorporates by reference the preceding paragraphs in
7 their entirety.

8 260. The Board of Supervisors was not legally authorized to decide the Lot Merger in the
9 first instance. County Code, section 90103.08(B) provides that “[i]t shall be the function and duty of the
10 planning commission to consider, approve and/or deny minor subdivision tentative maps as provided in
11 the subdivision ordinance (Division 8 of this title), and to consider, recommend approval or denial to the
12 board of supervisors for all major subdivisions (tentative maps) presented and filed with the
13 commission.”

14 261. County Code, section 90103.10(M) provides that a project is only deemed denied and
15 ripe for an appeal to the Board of Supervisors after both a motion to approve fails and a motion to deny
16 fails, in which case the project shall be deemed denied.

17 262. The Planning Commission concluded its hearing on the Lot Merger on December 18,
18 2025, without ever rendering a decision or making a recommendation on the merits of the Lot Merger or
19 making a CEQA determination. The Planning Commission did consider a motion to deny the Lot
20 Merger, but never considered a motion to approve the Lot Merger, and never denied the Lot Merger.
21 Therefore, the Lot Merger was not ripe for an appeal to the Board of Supervisors.

22 263. The Board of Supervisors’ decision to assume original jurisdiction over the Lot Merger
23 violated County Code and constitutes a prejudicial procedural injury that fundamentally undermines the
24 integrity of the administrative process. By bypassing the Planning Commission, the Board did more than
25 violate the County Ordinance requirement for a preliminary recommendation and decision; it effectively
26 nullified the Planning Commission’s mandatory advisory role established by County Code, section
27 90103.08(B). This maneuver allowed the Board to summarily disregard the professional staff
28 recommendations originally prepared for the Planning Commission’s review and change the County’s

1 official interpretation of the code requirement that parcels have one zoning designation. By truncating
2 the process in this manner, the Board silenced the technical and expert analysis intended to inform the
3 Planning Commission’s specialized oversight. This deprivation of a neutral, tiered review process
4 eliminates the Petitioner’s statutory right to an appeal—a vital check on governmental power that
5 ensures fairness, consistency, and the correct application of the law.

6 264. Furthermore, this bypass creates a concrete evidentiary injury. By-passing the Planning
7 Commission excluded the evidence that would have been provided at that hearing and eliminated the
8 Planning Commission’s deliberation on the evidence that would have been important for appellate
9 review. This failure to develop a comprehensive administrative record at the trial level of the
10 administrative process precludes meaningful judicial review.

11 **TENTH CAUSE OF ACTION**

12 **(Injunctive Relief Against All Respondents/Defendants, Real parties in Interest, and DOES and**
13 **ROES 1-20 inclusive)**

14 265. Sierra Club re-alleges and incorporates by reference the preceding paragraphs in their
15 entirety, as though fully set forth herein.

16 266. Sierra Club seeks to enforce the Subdivision Map Act, County’s Code, CEQA, State
17 Planning and Zoning Law, and the Streets and Highways Code. Respondents’ failure to comply with
18 these statutes and codes results in irreparable harm to Sierra Club.

19 267. An injunction is in the public’s interest. Irreparable injury can result to the Sierra Club
20 and its members before this lawsuit can be decided on the merits because Approvals for the Hyperscale
21 AI Data Center Project have been issued by the County. The Approvals will allow for irreversible
22 alterations to be made to the Property. If the Property is graded and the Project never completed, it will
23 contribute to blight and become a permanent source of fugitive dust and PM10 emissions requiring
24 constant mitigation.

25 268. Sierra Club has no adequate remedy at law. The injuries resulting from grading the
26 Property cannot be adequately compensated for by monetary damages, and the grading and construction
27 of the Hyperscale AI Data Center Project could render subsequent judicial proceedings meaningless.
28 The injunctive relief requested will redress those injuries.

1 5. For the Court to retain jurisdiction over this matter until such time as Respondents and
2 Real Parties in Interest have fully complied with their respective duties under the Court’s writ and
3 injunction.

4 6. For such costs and attorneys’ fees that Sierra Club may be entitled to under the law,
5 including, but not limited to, California Code of Civil Procedure § 1021.5.

6 7. For such additional relief as the Court may deem just and proper.

8 DATED: May 8, 2026

CHATTEN-BROWN LAW GROUP, APC

9
10 By: 

11 _____
12 JOSH CHATTEN-BROWN
13 KATHRYN PETTIT
14 ISABELLA COYE

15 Attorneys for Petitioner and Plaintiff
16 SIERRA CLUB

17 DATED: May 8, 2026

SHUTE, MIHALY & WEINBERGER LLP

18 By: 

19 _____
20 WINTER KING
21 SUSANNAH T. FRENCH

22 Attorneys for Petitioner and Plaintiff
23 SIERRA CLUB

24 2060781.9

1 **VERIFICATION**

2 **STATE OF CALIFORNIA, COUNTY OF IMPERIAL**

3 I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Injunctive
4 Relief and know its contents.

5 I am the Chapter Director of Sierra Club, a party to this action, and am authorized to make this
6 verification for and on its behalf, and I make this verification for that reason. The matters stated in the
7 foregoing document are true of my own knowledge except as to those matters which are stated on
8 information and belief, and as to those matters I believe them to be true.

9 I declare under penalty of perjury under the laws of the State of California that the foregoing is
10 true and correct.

11 Executed on May 8, 2026, at San Diego, California.

12 Mark West

13 Print Name of Signatory



14 Signature

EXHIBIT A

SHUTE, MIHALY
& WEINBERGER LLP

550 CALIFORNIA STREET, SUITE 1200
SAN FRANCISCO, CA 94104
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

WINTER KING
Attorney
King@smwlaw.com

May 6, 2026

Via E-Mail and U.S. Mail

The Honorable Board of Supervisors
County of Imperial
940 W. Main Street, Suite 209
El Centro, CA 92243-2839
cynthiamedina@co.imperial.ca.us
marilyndonayre@co.imperial.ca.us
geoffreypholbrook@co.imperial.ca.us
mistelleabdelmagied@co.imperial.ca.us

Re: Notice of Filing CEQA Litigation
Sierra Club v. County of Imperial, et al.
Challenge to Lot Merger #00191 and vacation of Leimgruber Road, Hyperscale
AI Data Center

Dear Board of Supervisors:

This letter is to notify you that the Sierra Club will file suit against the County for failure to observe the requirements of the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 *et seq.*, in the administrative process that culminated in the County’s decision to approve Lot Merger #00191 and vacate Leimgruber Road and find these actions categorically exempt from CEQA. The Notice of Exemption was filed on April 8, 2026. This notice is given pursuant to Public Resources Code section 21167.5.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Winter King, Attorney

PROOF OF SERVICE

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of San Francisco, State of California. My business address is 550 California Street, Suite 1200, San Francisco, CA 94104.

On May 6, 2026, I served true copies of the following document(s) described as:

NOTICE OF FILING OF CEQA SUIT TO BOARD OF SUPERVISORS FOR COUNTY OF IMPERIAL

on the interested parties in this action as follows:

The Honorable Board of Supervisors
County of Imperial
940 W. Main Street, Suite 209
El Centro, CA 92243-2839
cynthiamedina@co.imperial.ca.us
marilyndonayre@co.imperial.ca.us
geoffreypholbrook@co.imperial.ca.us
mistelleabdelmagied@co.imperial.ca.us

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the practice of Shute, Mihaly & Weinberger LLP for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address jmiao@smwlaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on May 8, 2026, at San Francisco, California.

/s/ Jennifer Miao

Jennifer K Miao

EXHIBIT B

SHUTE, MIHALY
& WEINBERGER LLP

396 HAYES STREET, SAN FRANCISCO, CA 94102
T: (415) 552-7272 F: (415) 552-5816
www.smwlaw.com

WINTER KING
Attorney
King@smwlaw.com

May 8, 2026

Via U.S. Mail and Email

CEQA Coordinator
Office of the Attorney General
Environment Section
1300 "I" Street
Sacramento, CA 95814-2919
CEQA@doj.ca.gov

Re: Notice of Filing CEQA Litigation
Sierra Club v. County of Imperial, et al.
Approval of and Notice of Exemption for Lot Merger #00191 and
vacation of Leimgruber Road (Hyperscale AI Data Center)

Dear Attorney General Bonta:

Enclosed please find a copy of Sierra Club's Verified Petition for Writ of Mandate and Complaint for Injunctive Relief in the above-titled action. The pleading is provided to you in compliance with Public Resources Code section 21167.7 and Code of Civil Procedure section 388. Please acknowledge receipt in the enclosed prepaid, self-addressed envelope.

Thank you for your attention to this matter.

Very truly yours,

SHUTE, MIHALY & WEINBERGER LLP



Winter King

EXHIBIT C



Serving the Environment in San Diego and Imperial Counties

February 17, 2026

Imperial County Board of Supervisors
940 W. Main Street
El Centro, CA 92243

Re: Opposition to Lot Merger No. 00191 and Proposed Data Center Project (Clark & Aten Roads)

Dear Chair and Members of the Board:

On behalf of the Sierra Club San Diego and Imperial County Chapter and its over 9,000 members, we respectfully submit this letter in opposition to Lot Merger No. 00191 and the proposed data center project near Clark Road and Aten Road.

As detailed in the City of Imperial's formal objection and protective appeal, the proposed lot merger raises serious legal and procedural concerns. County Ordinances require that lot mergers first be properly considered and decided by the Planning Commission before any appeal to the Board. In this case, the Planning Commission did not approve the merger; instead, it directed further consultation with the Cities of Imperial and El Centro and the community before reconsideration. Moving forward without a final Planning Commission determination risks violating County ordinances and rendering any approval null and void.

The City's appeal letter further outlines substantive legal deficiencies, including concerns that:

- The parcels are not under common ownership and may not qualify for merger under Government Code § 66499.20.3.
- The parcels are separated by a public road, raising questions about contiguity and compliance with County Ordinance 90808.00.
- The proposed merger conflicts with single-base zoning requirements and the Urban Overlay ("U") zoning designation, which requires coordination with the City of Imperial.
- Required Airport Land Use Commission review has not occurred.
- The merger and associated CEQA determinations may be inconsistent with state and local law.

Additionally, the City of Imperial's November 17, 2025, comment letter highlights the lack of full project transparency. The City has not received complete project details, including building specifications, infrastructure demands, and full environmental documentation. Given the project's proximity to existing homes, the City appropriately requested a comprehensive environmental review, traffic analysis, coordination with City services, and an Airport Land Use Commission review. These requests remain unresolved.



Serving the Environment in San Diego and Imperial Counties

Beyond the lot merger, significant environmental concerns remain. The applicant has reportedly applied for permits for 100 gas-powered backup generators, and the Air Pollution Control District has required additional air quality analysis. The scale of this proposal, along with anticipated traffic, energy use, battery storage, substations, and potential water demand, warrants full and transparent environmental review, not piecemeal approvals.

We are also concerned that a building permit has not yet been approved, and the prior CEQA exemption applied only to grading. Approving the lot merger at this stage would advance a major industrial project without a complete review of its cumulative impacts.

For these reasons, Sierra Club members urge the Board to:

1. Deny Lot Merger No. 00191;
2. Require full compliance with County ordinances, the Subdivision Map Act, CEQA, and Airport Land Use Commission requirements;
3. Ensure meaningful consultation with the City of Imperial, the City of El Centro, and affected residents; and
4. Require a comprehensive environmental review of the entire data center project before any further discretionary approvals.

The scale and potential impacts of this project demand transparency, legal compliance, and robust environmental review. We respectfully request that the Board uphold these standards and deny the proposed lot merger.

Sincerely,

Mark West

Mark West

Chapter Director

Sierra Club San Diego and Imperial County
Chapter

Lisa Ross

Lisa Ross

Executive Committee Chair

Sierra Club San Diego and Imperial County
Chapter



Serving the Environment in San Diego and Imperial Counties

February 17th, 2026

Imperial County Board of Supervisors
940 W. Main Street
El Centro, CA 92243

Re: Environmental Opposition to Lot Merger No. 00191 and Proposed Data Center Project

Dear Chair and Members of the Board:

On behalf of local Sierra Club members, we write to express strong opposition to Lot Merger No. 00191 and the proposed data center project near Clark and Aten Roads. This project presents significant, inadequately analyzed environmental, public health, and community impacts that require a full review before any approval is granted.

The proposed facility includes not only a large-scale data center but also an electrical substation, natural gas generators, and a Battery Energy Storage System (BESS). We understand the applicant has sought permits for up to 100 gas-powered backup generators. The cumulative air emissions from such a facility—particularly in Imperial County, which already struggles with air quality challenges—could increase particulate matter, nitrogen oxides, and greenhouse gas emissions. The Air Pollution Control District has reportedly required additional air quality impact analysis, underscoring that the environmental consequences remain unresolved.

Further, the City of Imperial has not been provided with complete project details or full environmental documentation. Without a comprehensive project description that includes projected energy demand, water consumption, cooling systems, and emissions data, meaningful CEQA review is impossible. Piecemeal review, approving a grading exemption while advancing a lot merger central to the project, risks segmenting environmental analysis and obscuring cumulative impacts.

Traffic and circulation impacts are another serious concern. The City has recommended a detailed traffic study evaluating construction traffic, long-term operational traffic, and heavy-vehicle movements. Increased truck traffic, construction emissions, and ongoing service vehicle trips will affect nearby neighborhoods located immediately adjacent to the project site. These residents deserve a full accounting of the impacts on noise, light pollution, air quality, and public safety before approvals move forward.

The project's proximity to homes and its Urban Overlay ("U") zoning designation require coordination with the City of Imperial and the application of urban-area standards. The Planning Commission appropriately required further consultation before reconsidering the lot merger.



Serving the Environment in San Diego and Imperial Counties

Advancing the merger without resolving these concerns would undermine environmental review and community participation.

Finally, the Airport Land Use Commission has not yet conducted the required compatibility review. Large-scale energy infrastructure, substations, and transmission components raise safety and land-use compatibility issues that must be addressed before approval.

Imperial County communities already face disproportionate environmental burdens. Approving a massive industrial data center complex, complete with fossil-fuel generators and energy storage infrastructure, without a full environmental review would compound those burdens. The County must ensure compliance with CEQA, analyze cumulative greenhouse gas and air quality impacts, and provide transparent, comprehensive environmental documentation before taking further action.

For these reasons, Sierra Club members urge the Board to deny Lot Merger No. 00191 and require full, project-level environmental review before any discretionary approvals are granted.

Sincerely,

Mark West

Mark West

Chapter Director

Sierra Club San Diego and Imperial County

Chapter

Lisa Ross

Lisa Ross

Executive Committee Chair

Sierra Club San Diego and Imperial County

Chapter



Serving the Environment in San Diego and Imperial Counties

February 17th, 2026

Imperial County Air Pollution Control District
150 South Ninth Street
El Centro, CA 92243

Re: Request for Comprehensive Air Quality Review – Proposed Data Center Project (Clark & Aten Roads)

Dear Air Pollution Control District Officials:

On behalf of local Sierra Club members, we respectfully submit these comments regarding the proposed data center project near Clark Road and Aten Road, including the reported permit application for up to 100 gas-fired backup generators.

Imperial County communities already face significant air quality challenges, including ongoing concerns about particulate matter and ozone precursors. The addition of a large-scale industrial facility that relies on numerous combustion-based generators poses serious risks to public health and regional air quality.

Even if characterized as “backup” generators, such units may operate for testing, maintenance, demand response, or during grid instability events. When aggregated, emissions from dozens of units operating concurrently could result in substantial releases of nitrogen oxides (NO_x), particulate matter (PM), volatile organic compounds (VOCs), carbon monoxide, toxic air contaminants, and greenhouse gases. These emissions would occur in close proximity to residential neighborhoods and other sensitive receptors.

We urge the District to require a comprehensive and transparent air quality analysis that includes:

- A full emissions inventory reflecting maximum potential operational scenarios;
- Modeling of cumulative impacts in conjunction with existing regional emission sources;
- A construction-phase emissions analysis, including fugitive dust and diesel exhaust from heavy equipment and truck traffic;
- A health risk assessment evaluating impacts to nearby residents, schools, and vulnerable populations; and
- An evaluation of consistency with state and regional greenhouse gas reduction targets.



Serving the Environment in San Diego and Imperial Counties

Given the scale of the proposed facility—including associated electrical infrastructure and battery energy storage components—it is essential that the air quality review not be segmented or minimized. The public must have access to complete technical documentation, and any permit conditions should include enforceable operational limits, monitoring requirements, and the use of best available control technologies.

Imperial County residents should not bear additional pollution burdens without a rigorous demonstration that the project will not worsen local air quality or disproportionately impact nearby communities. We respectfully request that the District ensure full regulatory compliance, a robust environmental review, and meaningful public participation before issuing any permits for this project.

Thank you for your attention to these concerns and for your continued commitment to protecting air quality and public health in Imperial County.

Sincerely,

Mark West

Mark West

Chapter Director

Sierra Club San Diego and Imperial County

Chapter

Lisa Ross

Lisa Ross

Executive Committee Chair

Sierra Club San Diego and Imperial County

Chapter