

**CALENDAR ITEM
C60**

A 56
S 40

02/21/14
W 40969
V. Perez
R. Lee

**CONSIDER AN APPLICATION FOR ISSUANCE
OF A NEGOTIATED STATE GEOTHERMAL RESOURCES LEASE
FOR NON SURFACE OCCUPANCY OF STATE SCHOOL LAND
WITHIN THE WISTER WATERFOWL MANAGEMENT AREA,
SALTON SEA GEOTHERMAL FIELD,
IMPERIAL COUNTY**

APPLICANT:

Imperial Wells Power LLC
Attn.: Mr. Vince Signorotti
12250 El Camino Real, Suite 280
San Diego, CA 92130

AREA, LAND TYPE, AND LOCATION:

Approximately 40 acres of the State's 100 percent (100%) reserved mineral interest (RMI) school land located within the Wister Waterfowl Management Area, about 2.5 miles west and southwest of the community of Niland, near the Salton Sea in Imperial County, as described in Exhibit A and depicted in Exhibit B, attached hereto.

BACKGROUND:

On November 5, 2012, Imperial Wells Power LLC (Applicant), a California limited liability company formed by EnergySource LLC, submitted an application for a negotiated geothermal lease to explore and develop geothermal resources. The application includes a total of 1,611 acres of which 1,571 acres are State proprietary lands owned and managed by the California Department of Fish and Wildlife (CDFW), and the remaining 40 acres are State school lands. For the 40 acres of school land, the CDFW owns the surface estate and the California State Lands Commission (Commission) retains 100 percent (100%) of the reserved mineral interest (RMI). Both parcels are located in the Wister Waterfowl Management Area (WWMA).

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Because the geothermal resources under these two parcels differ in ownership interest, separate leases are required. The subject of this item is the 40 acres of State school land, while Calendar Item C61 (2/21/2014) describes the lease request for the 1,571 acres of CDFW proprietary lands. The two leases are being considered to properly allocate the funds into two separate accounts. The revenue from the State school land lease will be allocated to the State Teachers Retirement System, while the revenue from the CDFW proprietary land lease will go to the general fund. Under Public Resources Code, section 6924, for the CDFW proprietary lease, fifty percent (50%) of the revenue received by the state shall be available for appropriation by the Legislature for the program of CDFW.

Public Resources Code section 6924 authorizes the Commission to issue geothermal permits or leases on State-owned lands where the surface is under the jurisdiction of another department or agency but only with the consent of, and subject to, reasonable terms and conditions prescribed by that other department or agency. Pursuant to the statute on May 23, 2013, Commission staff received consent from Ms. Kimberly Nicol, Regional Manager of CDFW, to negotiate a No Surface Occupancy (NSO) Geothermal Resources Lease with the Applicant.

In accordance with Public Resources Code section 6919, a negotiated lease, as opposed to a lease awarded by competitive bid, has been determined to be the most appropriate course of action. This is primarily because the Applicant currently holds leases and/or operating interests on parcels that are adjacent to the lands to the west and south of the project area. Therefore, the Applicant is best suited to develop the State mineral resource.

PROJECT DESCRIPTION:

The Applicant has submitted an exploratory program and timeline for the drilling and testing of up to six (6) geothermal wells from up to three (3) well pads on private lands, during the term of the Lease. The geothermal wells are to be drilled into the geothermal reservoir and flow tested to confirm the characteristics of the geothermal reservoir and determine the level of commercial viability. Each geothermal well will be drilled with a rotary drill rig, and will be drilled to the design depth (approximately 9,000 feet), or the depth selected by the project geologist under a geothermal well drilling and completion program approved by the California Division of Oil, Gas, and Geothermal Resources (CDOGGR). The Applicant anticipates that some of the six wells, which is not known at this time, will project into the WWMA through the subsurface from well pads on private land that are located just outside and south of the WWMA boundary. Any well that is drilled into leased lands and that produce geothermal resources in commercial

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quantities, will be subject to royalty payments to the State, determined by the proportion which their steam volume contributes to the total volume delivered to the power generating facility.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Division 6, Parts 1 and 2

KEY LEASE PROVISIONS:

1. Primary Term: Ten-year primary term, and for so long thereafter as geothermal resources are being, or capable of being, produced or utilized, in commercial quantities from the leased land, or a unit in which the leased land participates.
2. Rent: Annual rent of \$50.00 per acre or \$2,000, until the leased land begins yielding a production royalty, at which time the rent will be reduced to \$1.00 per acre.
3. Royalty: Production royalty of three percent (3%) of the value of electricity generated from geothermal resources attributable to the leased land. For mineral products or chemical compounds, a production royalty of five percent (5%) of their value in their first marketable form, will be applied.
4. Management Fee: Starting March 1, 2014, Lessee shall execute a Standard Reimbursement Agreement with the Commission for \$2,500 per year with automatic annual renewals increasing the cap five percent (5%) per year thereafter to cover periodic lease inspections, and the administration and implementation of the terms of the Lease.
5. Minimum Royalty: After the discovery of geothermal resources in commercial quantities on the leased land, all royalties due to the State during any lease year do not equal or exceed \$100.00 for each acre or \$4,000, and then Lessee shall pay whatever amount is necessary to provide a minimum royalty of \$100.00 for each acre or \$4,000.
6. Unitization: Lessee may commit the leased land to one or more geothermal units, provided that the leased land is committed in its entirety.
7. Bond: Bond of \$20,000.00 in favor of the State is subject to review every five years.

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8. Insurance: Liability insurance policy naming the State as additional insured, with coverage of at least \$2,000,000.00 per occurrence and a general aggregate limit of at least \$5,000,000.

OTHER PERTINENT INFORMATION

1. A Negative Declaration (ND), State Clearinghouse No. 2013101059, was prepared by Imperial County and adopted on December 11, 2013, for this project. The Commission staff has reviewed such document. On August 29, 2013, Imperial County's Environmental Evaluation Committee recommended several mitigation measures to be incorporated into the project, as contained in Exhibit C, attached hereto. At the time Imperial County adopted the ND and approved the project, these mitigation measures were also approved as specific conditions of the project.
2. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by California Code of Regulations, Title 2, section 2954 is not applicable.
3. Commission staff conducted an inspection of the portion of WWMA that IWP desires to lease on August 28, 2013. The inspection memo is filed in the Long Beach office.

EXHIBITS:

- A. Land Description
- B. Location Map
- C. Mitigation Monitoring Program

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDINGS:

1. Find that a ND, State Clearinghouse No. 2013101059, was prepared by Imperial County and adopted on December 11, 2013, for this project and that the Commission has reviewed and considered the information contained therein.
2. Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

AUTHORIZATIONS:

1. Authorize issuance of a negotiated State Geothermal Resources Lease to Imperial Wells Power (IWP), covering the lands described in Exhibit A, attached hereto.
2. Authorize the Executive Officer or her designee to execute any documents necessary to implement the Commission's actions.

EXHIBIT A

W 40969

LAND DESCRIPTION

One (1) parcel of land situate in Township 10 South, Range 13 East, SBM., County of Imperial, State of California, and more particularly described as follows:

Parcel 1 – Patented School Lands, Portion of Section 36, T10S, R13E, SBM.

The Northwest $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 36, Township 10 South, Range 13 East, SBM., Patented February 21, 1958 in Book 57 at Page 204, on file at the Sacramento Offices of the California State Lands Commission.

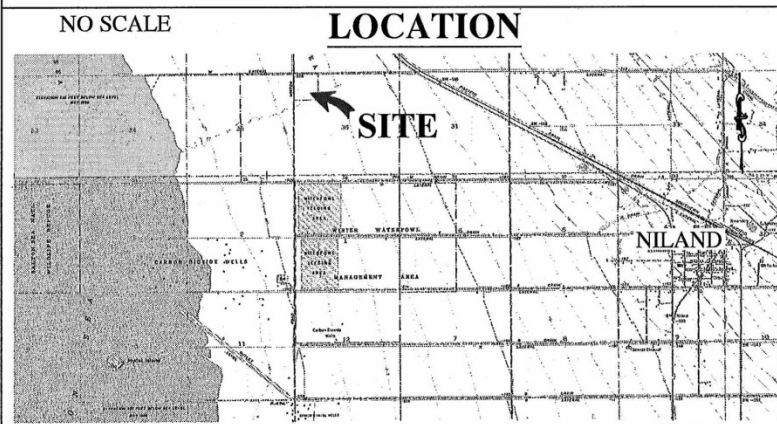
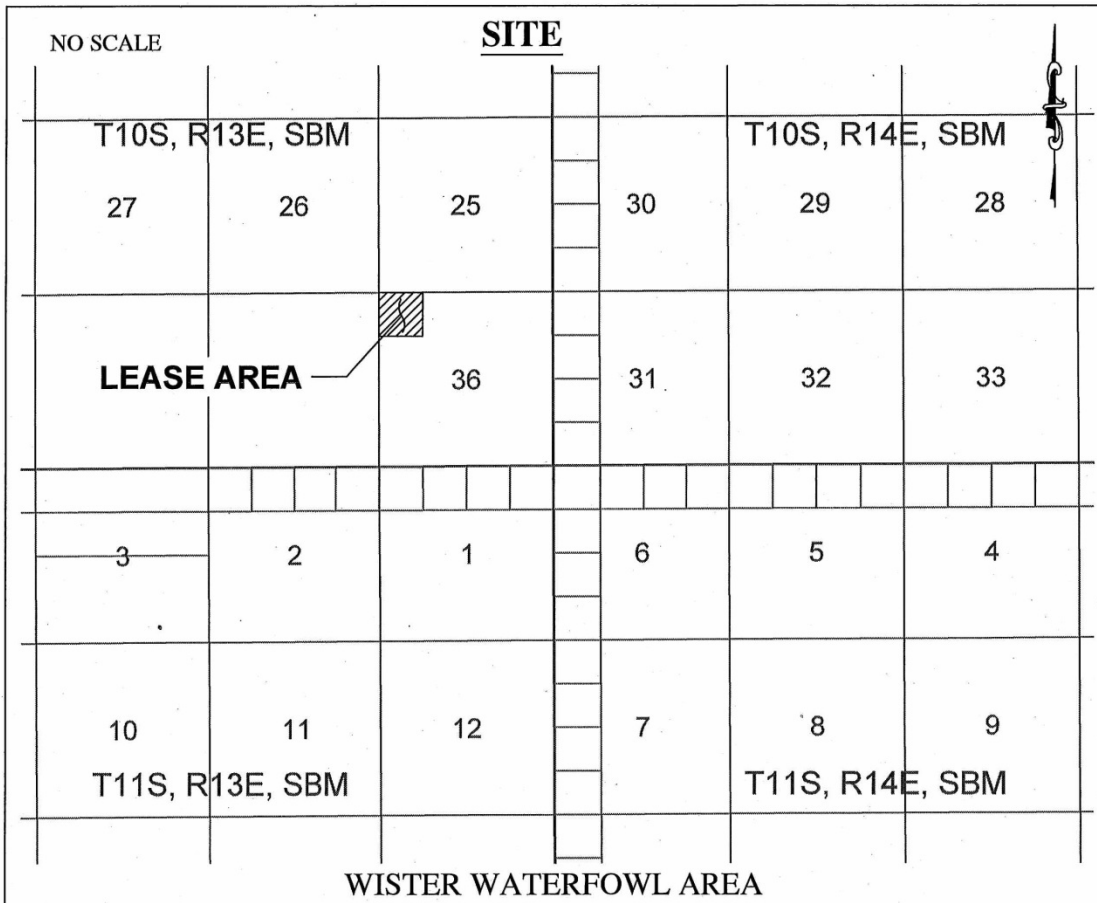
END OF DESCRIPTION

Prepared October 14, 2013 by the California State Lands Commission Boundary Unit.



EXHIBIT B

W 40969



MAP SOURCE: USGS QUAD

Exhibit B
W 40969
IMPERIAL WELLS
POWER LLC
NEGOTIATED
GEOTHERMAL LEASE
IMPERIAL COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

EXHIBIT C
CALIFORNIA STATE LANDS COMMISSION (CSLC)
MITIGATION MONITORING PROGRAM
IMPERIAL WELLS POWER (W 40969)

Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
Biological Resources					
BIO-1: Possible Noise Impacts to Yuma Clapper Rails	MM BIO-1. Limiting Noise Duration and Frequency to Yuma Clapper Rails. Excessive noise (i.e. noise exceeding 60 dBA in any occupied Yuma clapper rail habitat) shall be limited to periods outside of the Yuma clapper rail breeding season (i.e., the allowable period runs from mid-September to mid-March).	Onsite	Define and implement proposed measures	Imperial County (County), California Department of Fish and Wildlife (CDFW), Applicant, and contractors	During construction
BIO-2: Possible Construction Impacts to Burrowing Owls	MM BIO-2. Requiring Nesting Season Burrowing Owl Survey. A nesting season burrowing owl survey of the Project area shall be undertaken in conformance with CDFW 2012 guidelines. Construction would have the potential to cause direct impacts on burrowing owls through crushing of adults, young, or eggs within burrows; entrapment of or injury to burrowing owls in burrows, foraging habitats, or wintering habitats. Construction noise could also affect burrowing owl breeding behavior and reproductive success. If burrowing owls are present then the Permittee shall: a) Protect in place on or adjacent to the Project site burrowing owls and their habitat through the use of buffer zones, visual screen, or other measures in conformance with CDFW 2012 guidelines. b) Avoid occupied burrows during the breeding period from February 1, through August 31; and	Onsite	Define and implement proposed measures	County, CDFW, Applicant, and contractors	Before, and during construction

Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
	<p>avoid construction within 300 feet of any active burrow during the breeding season.</p> <p>c) Avoid occupied burrows during the non-breeding season through the use of agency approved burrow exclusion techniques in conformance with CDFW guidelines and approval.</p> <p>d) Coordinate with CDFW for the development of site-specific avoidance and mitigation measures, as necessary.</p>				
<p>BIO-3: Possible Vegetation Clearing Impacts to Avian Nesting</p>	<p>MM BIO-3. Allowing Vegetation Clearing Outside the Avian Breeding Season. To avoid direct impacts to avian nesting protected under the Migratory Bird Treaty Act and the California Fish and Game Code, vegetation clearing for the Project shall be conducted outside of the general avian breeding season (February 1, through August 31). If vegetation clearing cannot occur outside of the avian breeding season, a qualified biologist shall be retained to conduct a pre-vegetation clearing. If active nests are found, then no clearing shall be conducted within 100 feet of the active nest of non-listed species, within 300 feet of listed species, and within 300 feet of active raptor nests, until the biologist determines the nest is no longer active or the nest is abandoned or fails. The biologist shall submit the results of the survey to the U.S. Fish and Wildlife Service (USFWS) and CDFW.</p>	<p>Onsite</p>	<p>Define and implement proposed measures</p>	<p>County, CDFW, Applicant, and contractors</p>	<p>Before, and during construction</p>

Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
<p>BIO-4: Possible Impacts from Fugitive Dust on Vegetation and Wildlife</p>	<p>MM BIO-4. Developing and Implementing Dust Control Plan (Plan) to Reduce Impacts of Fugitive Dust on Vegetation and Wildlife. A Plan shall be developed and implemented to reduce the impacts of fugitive dust on vegetation and wildlife dependent on that vegetation. The Plan, which shall be made available to the Imperial County Air Pollution Control District (ICAPCD) upon request, will comply with the requirements of ICAPCD Rule 801.F. Fugitive dust generation during construction and use of access roads and the well pads shall be minimized by watering or surfacing, as necessary. To further reduce fugitive dust emissions, vehicle traffic on private access roads and well pads shall be kept to speeds below 15 miles per hour.</p>	<p>Onsite, and offsite</p>	<p>Define and implement proposed measures</p>	<p>County, CDFW, Applicant, and contractors</p>	<p>Before, and during construction</p>
<p>BIO-5: Possible Impacts from Night Lighting</p>	<p>MM BIO-5. Using Shielded and Directional Lighting to Minimize Night Lighting During Construction Activities. Night lighting shall be minimized during construction activities by using shielded, directional lighting that is pointed downward and by avoiding illumination of natural areas and the night sky. During well drilling operations, night lighting shall be used only to the extent necessary for worker safety and security purposes. All motion or heat activated lighting shall be shielded and directed downward.</p>	<p>Onsite</p>	<p>Define and implement proposed measures</p>	<p>County, CDFW, Applicant, and contractors</p>	<p>During construction</p>

Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
<p>BIO-6: Possible Impacts to Desert Sink Scrub Habitat</p>	<p>MM BIO-6. Mitigating for Direct Impacts (Resulting from Project) Through a Combination of Compensation And/or Restoration at a Minimum of 2:1 Ratio, or As Required by Permitting Agencies. Well Site #2, #3 and #5 and the access road/pipeline corridor between Well #4 and #5 shall, to the extent feasible, be constructed in a manner that avoids direct impacts on the Desert Sink Scrub habitat mapped in those areas. Any direct impact to Desert Sink Scrub habitat occurring as a result of the Project shall be mitigated through a combination of compensation and/or restoration at a minimum 2:1 ratio, or as required by permitting agencies. Habitat impact compensation shall be accomplished through agency-approved land preservation or through mitigation fee payment for land supporting comparable habitat to that impact by the proposed Project. If determined feasible and appropriate by CDFW, a Habitat Restoration/ Revegetation Plan shall be prepared and restoration shall be implemented as an alternative mitigation for the direct impacts on Desert Sink Scrub habitat.</p>	<p>Onsite, and offsite</p>	<p>Define and implement proposed measures</p>	<p>County, CDFW, Applicant, and contractors</p>	<p>During, and after construction</p>
<p>BIO-7: Possible Impacts to Burrowing Owl Populations</p>	<p>MM BIO-7. Completing and Submitting Nesting Season Burrowing Owl Survey and Pre-Construction Take Avoidance Survey to CDFW. CDFW requires a nesting season burrowing owl survey as well as a pre-construction take avoidance survey. These surveys shall be submitted to the address below: Victoria Chau Environmental Scientist CA Dept. of Fish and Wildlife Colorado River Program P.O. Box 2160, Blythe, CA 92226</p>	<p>Onsite, and offsite</p>	<p>Define and implement proposed measures</p>	<p>County, CDFW, Applicant, and contractors</p>	<p>Before, and during construction</p>

Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Responsible Party	Timing
BIO-8: Possible Impacts to Yuma Clapper Rail	MM BIO-8. Maintaining a 500 Feet Buffer Around Yuma Clapper Rail Occupied Habitat. CDFW requires that the Lessee shall not conduct any construction or drilling operations within 500 feet of a habitat occupied by the Yuma clapper rail.	Onsite	Define and implement proposed measures	County, CDFW, Applicant, and contractors	During construction
BIO-9: Possible Noise Impacts to Nearby Residents	MM BIO-9. Carrying out Project-related Activities on Well Pad #5 Outside Duck Hunting Season. CDFW requires that no well pad construction or well drilling activities on Well Pad #5 shall be performed during the duck and waterfowl hunting season of October 18 through February 2 of each year.	Onsite	Define and implement proposed measures	County, CDFW, Applicant, and contractors	During construction
BIO-10: Possible Spread of Non-Native Plan Species	MM BIO-10. Disposing All Vegetation and Soil Removed in a Safe and Legal Manner to Prevent Spread of Non-Native Plan Species. CDFW requires that all vegetation and soil that is removed for the proposed Project shall be disposed of in a safe and legal manner such that the plant material and soil (which contains seeds) are not released into the surroundings (e.g., trucks hauling such material should be tightly covered).	Onsite, and offsite	Define and implement proposed measures	County, CDFW, Applicant, and contractors	During, and after construction