

**CALENDAR ITEM  
C61**

A 56

02/21/14

W 40969

S 40

V. Perez

R. Lee

**CONSIDER AN APPLICATION FOR ISSUANCE  
OF A NEGOTIATED STATE GEOTHERMAL RESOURCES LEASE ON BEHALF OF  
THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE  
FOR NON SURFACE OCCUPANCY OF STATE PROPRIETARY 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 1,571 acres of State proprietary 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 on approximately 1611 acres. The California Department of Fish and Wildlife (CDFW) owns 1,571 acres of proprietary land in fee, located within the Wister Waterfowl Management Area (WWMA).

Because the geothermal resources under these two parcels differ in ownership interest, separate leases are required. This lease pertains solely to the 1,571 acres of CDFW proprietary lands, while the lease described in Calendar Item C61 (2/21/2014) pertains to 40 acres of School Lands in the proposed project area.

CALENDAR ITEM NO. **C61** (CONT'D)

Public Resources Code section 6924 authorizes the California State Lands Commission (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. 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 on CDFW's behalf.

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's mineral resource.

**PROJECT DESCRIPTION:**

IWP has submitted an exploratory program and timeline for drilling and testing up to six (6) geothermal wells, from up to three (3) well pads on private lands adjacent to the WWMA, during the term of the Lease. The geothermal wells are designed to penetrate and flow test the geothermal reservoir 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 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 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

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**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 \$25.00 per acre or \$39,275, and increased to \$50.00 per acre or \$78,550, after the sixth anniversary date of the lease, until the leased land begins yielding a production royalty, at which time the rent reduces 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. Minimum Royalty Provision: 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 \$20.00 for each acre, or \$31,420.00, and then Lessee shall pay whatever amount is necessary to provide a minimum royalty of \$20.00 for each acre, or \$31,420.00.
5. Management Fee: Starting March 1, 2014, Lessee shall execute a Standard Reimbursement Agreement with the State for \$7,500 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.
6. Drilling Term: Lessee shall commence exploratory drilling operations within two (2) years from the effective date of the Lease. If Lessee fails to commence drilling operations before, the Lease will expire.
7. Unitization: Lessee may commit the leased land to one or more geothermal units, provided that the leased land is committed in its entirety.
8. Performance Bond: Bond of \$600,000.00 in favor of the State is subject to review every five years.
9. 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.

CALENDAR ITEM NO. **C61** (CONT'D)

**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. Commission staff has reviewed this 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

**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.

CALENDAR ITEM NO. **C61** (CONT'D)

2. Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

**AUTHORIZATION:**

1. Authorize issuance of a negotiated State Geothermal Resources Lease to Imperial Wells Power LLC on behalf of California Department of Fish and Wildlife, 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

Three (3) parcels of land situate in Township 10 South, Range 13 East, Township 11 South, Range 13 East, and Township 11 South, Range 14 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 West ½ of Section 36, Township 10 South, Range 13 East, SBM., Patented January 16, 1911 in Book 30 at Page 216, on file at the Sacramento Offices of the California State Lands Commission.

EXCEPTING THEREFROM the Northwest ¼ of the Northwest ¼ of said Section 36, Patented February 21, 1958 in Book 57 at Page 204, on file at the Sacramento Offices of the California State Lands Commission.

Parcel 2 – Department of Fish and Wildlife, Portion of Section 1 and Section 12, T11S, R13E, SBM., and a portion of Section 6, T11S, R14E, SBM.

All of Parcels 25, 26, 27, and 28 described in SCC No. 28118, Final Order and Decree of Condemnation as to Parcels Nos. 1, 25, 26, 27, and 28, filed July 19, 1955 in Book 915 at Page 107 Official Records of said County.

Parcel 3 – Department of Fish and Wildlife, Portion of Section 1, T11S, R13E, SBM.

All of Parcel 24 described in SCC No. 28118, Final Order and Decree of Condemnation as to Parcels Nos. 6, 8, 9, 11, 16, 21, and 24, filed June 29, 1954 in Book 888 at page 584 Official Records of said County.

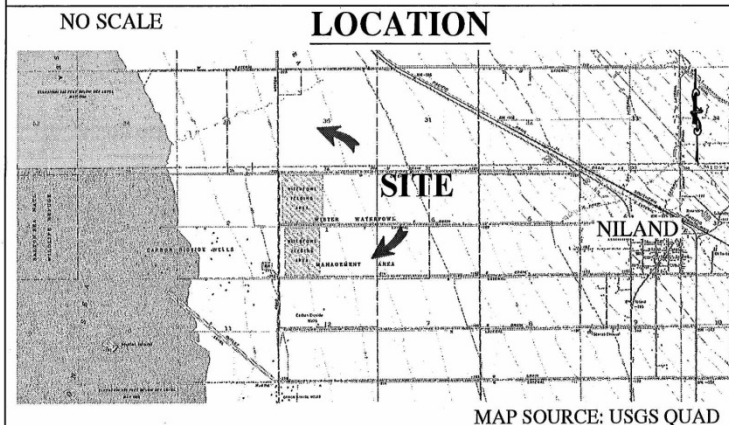
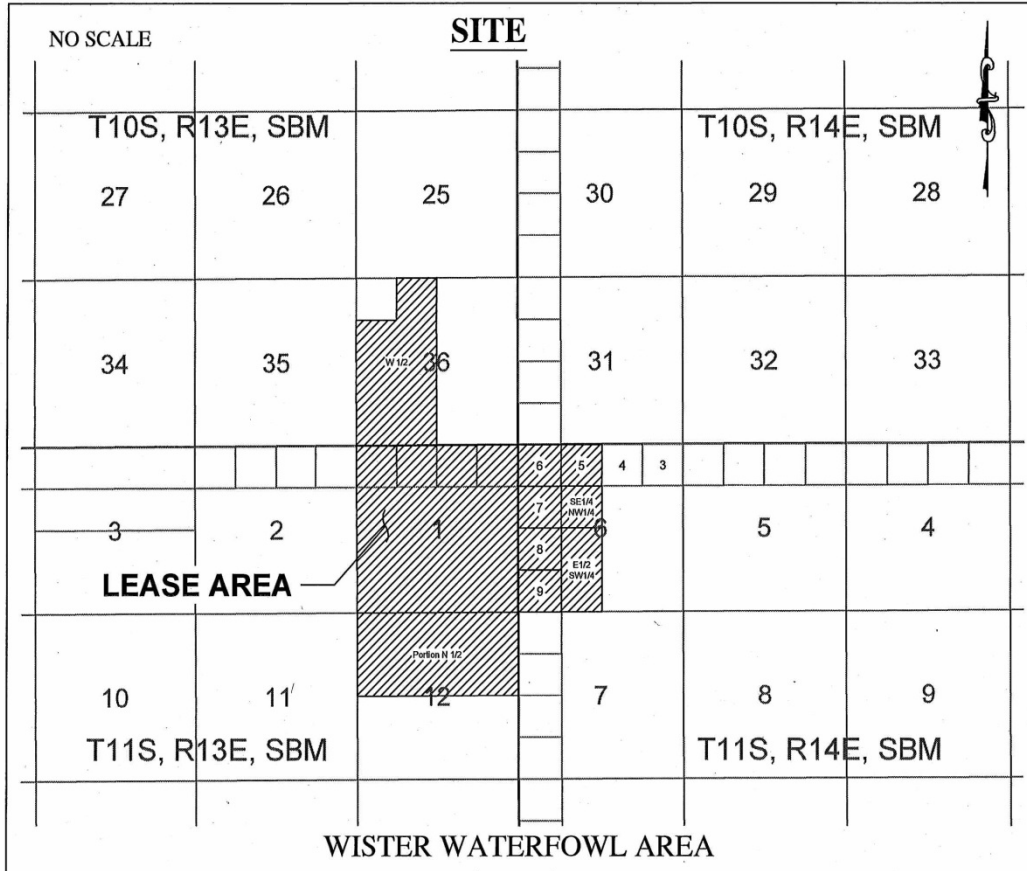
## END OF DESCRIPTION

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



# EXHIBIT B

W 40969



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

**SITE**

JAK 09/16/13

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
<b>Biological Resources</b>					
<b>BIO-1:</b> Possible Noise Impacts to Yuma Clapper Rails	<b>MM BIO-1. Limiting Noise Duration and Frequency to Yuma Clapper Rails.</b> 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
<b>BIO-2:</b> Possible Construction Impacts to Burrowing Owls	<b>MM BIO-2. Requiring Nesting Season Burrowing Owl Survey.</b> 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><b>BIO-3:</b> Possible Vegetation Clearing Impacts to Avian Nesting</p>	<p><b>MM BIO-3. Allowing Vegetation Clearing Outside the Avian Breeding Season.</b> 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>	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><b>BIO-4:</b> Possible Impacts from Fugitive Dust on Vegetation and Wildlife</p>	<p><b>MM BIO-4. Developing and Implementing Dust Control Plan (Plan) to Reduce Impacts of Fugitive Dust on Vegetation and Wildlife.</b> 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><b>BIO-5:</b> Possible Impacts from Night Lighting</p>	<p><b>MM BIO-5. Using Shielded and Directional Lighting to Minimize Night Lighting During Construction Activities.</b> 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><b>BIO-6:</b> Possible Impacts to Desert Sink Scrub Habitat</p>	<p><b>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.</b> 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><b>BIO-7:</b> Possible Impacts to Burrowing Owl Populations</p>	<p><b>MM BIO-7. Completing and Submitting Nesting Season Burrowing Owl Survey and Pre-Construction Take Avoidance Survey to CDFW.</b> 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
<b>BIO-8:</b> Possible Impacts to Yuma Clapper Rail	<b>MM BIO-8. Maintaining a 500 Feet Buffer Around Yuma Clapper Rail Occupied Habitat.</b> 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
<b>BIO-9:</b> Possible Noise Impacts to Nearby Residents	<b>MM BIO-9. Carrying out Project-related Activities on Well Pad #5 Outside Duck Hunting Season.</b> 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
<b>BIO-10:</b> Possible Spread of Non-Native Plan Species	<b>MM BIO-10. Disposing All Vegetation and Soil Removed in a Safe and Legal Manner to Prevent Spread of Non-Native Plan Species.</b> 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