

# PROJECT REPORT

**TO: PLANNING COMMISSION**

**AGENDA DATE** January 22, 2025

**FROM: PLANNING AND DEVELOPMENT SERVICES**

**AGENDA TIME** 9:00 AM/No. 3

Phoenix 1, LLC

PROJECT TYPE: Time Extension #24-0040 for CUP #23-0013 SUPERVISOR DIST: #4

LOCATION: 2300 Farr Rd. APN: 039-080-004, 005 & 006

Brawley, CA 92227

PARCEL SIZE: +/-432.51 Acres Total

GENERAL PLAN (existing) Agriculture

GENERAL PLAN (proposed) N/A

ZONE (existing) A-2-RIA-3 (General Agriculture-Rural Zone\Heavy Agriculture) ZONE (proposed) N/A

GENERAL PLAN FINDINGS     CONSISTENT     INCONSISTENT     MAY BE/FINDINGS

PLANNING COMMISSION DECISION:

HEARING DATE: 01/22/2025

APPROVED

DENIED

OTHER

PLANNING DIRECTORS DECISION:

HEARING DATE: \_\_\_\_\_

APPROVED

DENIED

OTHER

ENVIROMENTAL EVALUATION COMMITTEE DECISION:

HEARING DATE: \_\_\_\_\_

INITIAL STUDY: \_\_\_\_\_

NEGATIVE DECLARATION

MITIGATED NEG. DECLARATION

EIR

DEPARTMENTAL REPORTS / APPROVALS:

PUBLIC WORKS

NONE

ATTACHED

AG

NONE

ATTACHED

APCD

NONE

ATTACHED

E.H.S.

NONE

ATTACHED

FIRE / OES

NONE

ATTACHED

SHERIFF

NONE

ATTACHED

OTHER

## **REQUESTED ACTION:**

**STAFF RECOMMENDS THAT THE PLANNING COMMISSION HOLD A PUBLIC HEARING, HEAR ALL THE PROPONENTS AND OPPONENTS OF THE PROPOSED PROJECT, AND THEN TAKE THE FOLLOWING ACTIONS:**

1. FIND THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM CEQA UNDER THE GOVERNMENT CODE, SECTION 15301 AND THAT NO FURTHER ENVIRONMENTAL DOCUMENTATION IS NECESSARY; AND,
2. FIND THAT TIME EXTENSION #24-0040 FOR CONDITIONAL USE PERMIT #23-0013 IS CONSISTENT WITH APPLICABLE ZONING AND BUILDING ORDINANCES; AND,
3. APPROVE TIME EXTENSION #24-0040 FOR CONDITIONAL USE PERMIT #23-0013 FOR A NEW 1-YEAR TERM, SUBJECT TO THE EXISTING CONDITIONS.

**Planning & Development Services**

801 MAIN STREE, EL CENTRO, CA. 92243 442-265-1736

JIM MINNICK, DIRECTOR

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**STAFF REPORT**  
**Planning Commission Meeting**  
**January 22, 2025**

**Project Name:**      Time Extension #24-0040 for CUP #23-0013

**Applicant:**            Phoenix 1, LLC.

**Project Location:**

The project site is located at 2300 Farr Rd, Brawley, CA 92227. The project parcels are identified as 039-080-004-000, 039-080-005-000 and 039-080-006-000. They are legally described as TR 43 EXC S 100 FT THEREOF T13S R16E 289.54 AC S.B.B.M. (APN 039-080-004-000), POR PAR 1 LLA#281 ALSO BEING N3/4 E2 NE4 SEC 20 T13S R16E 60AC S.B.B.M (APN 039-080-005-000), and POR PAR 3 LLA#281 ALSO BEING S4 E2 NE4 & POR SE4 SEC 20 T13S R16E 82.50 AC S.B.B.M. (039-080-006-000).

**Project Summary:**

The applicant Phoenix 1, LLC, is requesting a minor amendment for a one (1) year time extension for Conditional Use Permit #23-0013 for the reworking of two (2) existing geothermal wells originally permitted under CUP(G) #09-0002 and the laying of an 8-inch pipe connecting the two wells for testing purposes.

The applicant states the need for the minor amendment to extend CUP #23-0013 is because of starting constraints due to burrowing owl nesting season as outlined in the burrowing owl mitigation measures, forcing the project to start in the fall of 2024 towards the end of the life of the CUP. Additionally, the initial well cleanout activities had minimal success requiring the need for different drilling rigs to be brought in to finish the work. The applicant has contracted for the new equipment to be used onsite to complete the well cleanout activities, but due to scheduling difficulties with the contracted companies, the project may not complete work before the CUP ends on February 13, 2025. Upon approval of the minor amendment for a Time Extension the CUP will expire on February 13, 2026.

After review of the project file and payment received, it can be determined that CUP #23-0013 complies with the CUP's conditions of approval and applicable County land use regulations.

**Project Background:**

CUP #23-0013 was heard and approved by the Planning Commission on December 13, 2023. The time limit for the CUP was for one year with two (2) 4-month time extensions as a temporary project. The project has subsequently complied with both time extensions keeping the project in compliance for the life of the CUP.

**Land Use Analysis:**

The proposed project is located on land designated within the County's General Plan as "Agriculture" and could be found consistent with the General Plan as the existing wells and well pads are an allowed use within both the A-2-R (General Agriculture in Rural Zone) and A-3 (Heavy Agriculture) zone designations with an approved Conditional Use Permit per the Imperial County Land Use Ordinance, Sections 90508.02 and 90509.02, as is the proposed reworking and testing of the wells.

**SURROUNDING LAND USES, ZONING AND GENERAL PLAN DESIGNATIONS:**

<b>DIRECTION</b>	<b>CURRENT LAND USE</b>	<b>ZONING</b>	<b>GENERAL PLAN</b>
<b>Project Site</b>	Agriculture, geothermal wells and well pads	A-2-R and A-3	Agriculture
<b>North</b>	Agriculture fields	A-2-R and A-3	Agriculture
<b>South</b>	Agriculture fields	A-2-R	Agriculture
<b>East</b>	Agriculture fields	A-3	Agriculture
<b>West</b>	Agriculture fields	A-2-R	Agriculture

**Environmental Review:**

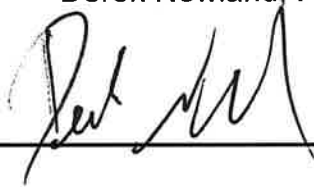
Time Extension #24-0040 is categorically exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines (Class 1 – Existing Facility).

**Staff Recommendation:**

Staff recommends that the Planning Commission hold a public hearing, hear all the proponents and opponents of the proposed project, and then take the following actions:

1. Find that the project is categorically exempt from CEQA under the Government Code, Section 15301 and that no further environmental documentation is necessary; and,
2. Find that Time Extension #24-0040 for Conditional Use Permit #23-0013 is consistent with applicable zoning and building ordinances; and
3. Approve Time Extension #24-0040 for Conditional Use Permit #23-0013 for a new 1-year term, subject to the existing conditions.

Prepared By: Derek Newland, Planner III



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Reviewed By: Michael Abraham, AICP, ICPDS Assistant Director



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Approved By: Jim Minnick, Planning & Development Services Director



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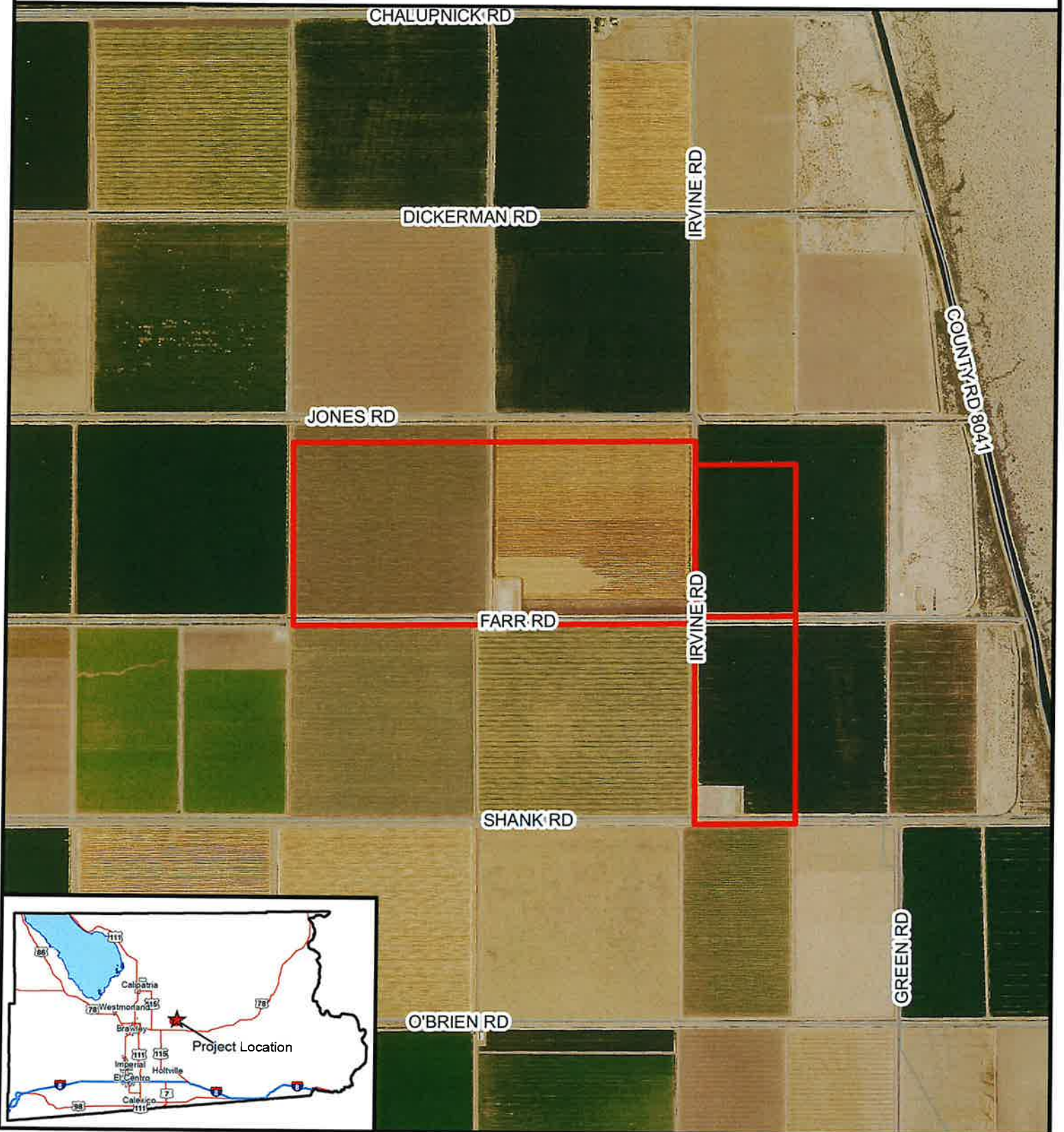
Attachments:

- A. Vicinity Map
- B. Site Plan
- C. Planning Commission Resolution
- D. Amendment #2 to CUP #23-0013
- E. Conditional Use Permit #23-0013
- F. Time Extension Request

**ATTACHMENT "A"**  
**Vicinity Map**



# PROJECT LOCATION MAP



**PHOENIX 1 LLC**  
**EXT #24-0040 for CUP #23-0013**  
**APN 039-080-004, 005, & 006-000**

 Project Parcels  
 Centerline



**ATTACHMENT "B"**  
**Site Plan**

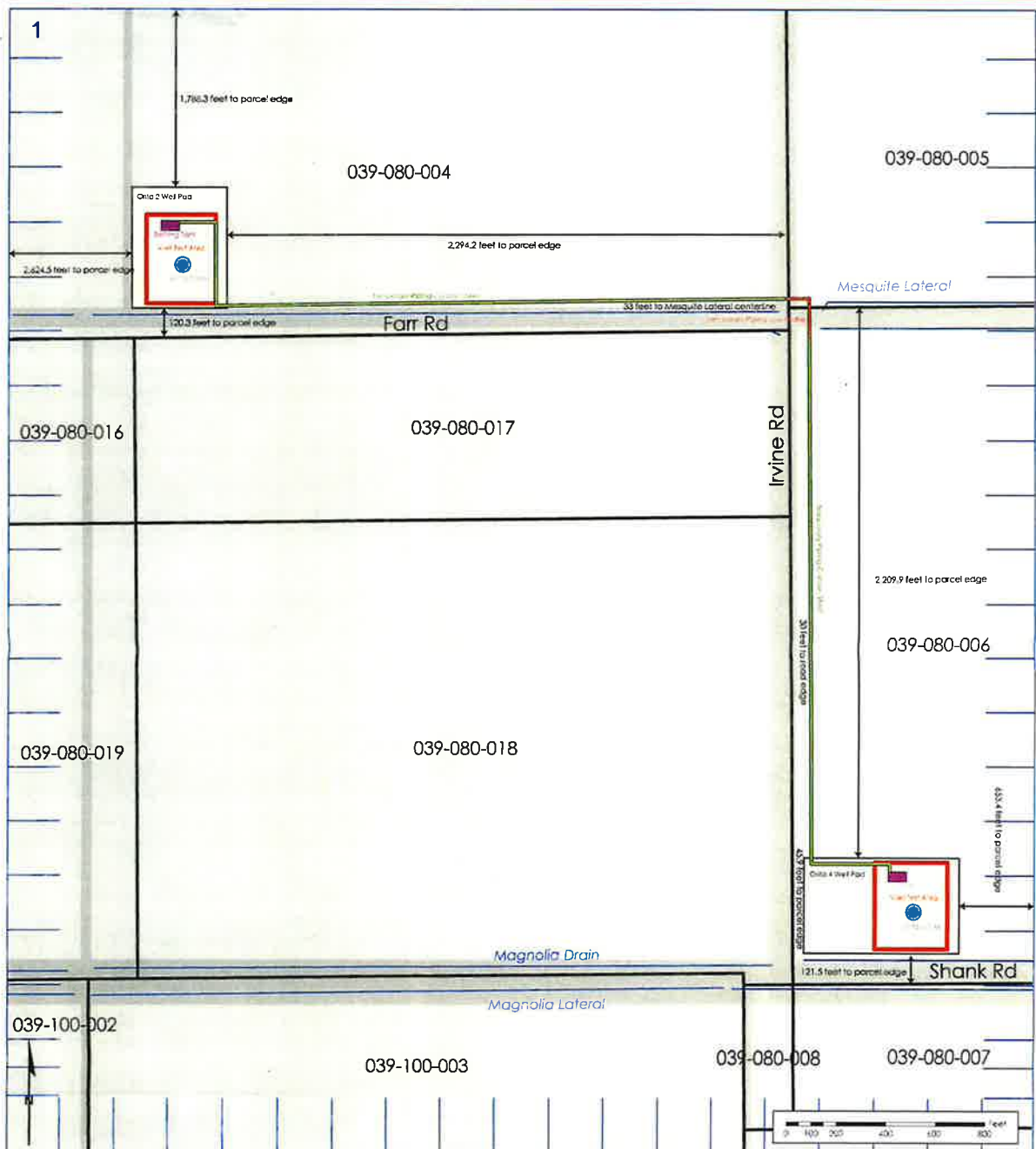
# SITE PLAN

I.C. PLANNING & DEVELOPMENT SERVICES DEPT  
801 Main Street, El Centro, CA 92243 (760) 482-4236

READ INSTRUCTIONS ON THE BACK! USE PEN TO DRAW - DO NOT USE PENCIL!

DRAW SITE LAYOUT PLAN TO SCALE & COMPLETE ALL NUMBERED SPACES!

DRAW SITE LAYOUT PLAN TO SCALE & COMPLETE ALL NUMBERED SPACES!



NAME OF APPLICANT <b>2</b> Phoenix 1 LLC	APPLICANT PHONE NO <b>3</b> 904-735-5304	SIZE OF PARCEL <b>4</b> APNs total approx 432 acre
PROJECT SITE ADDRESS <b>5</b> n/a	ASSESSORS PARCEL NO <b>6</b> 039-080-004, 039-080-005, 039-080-006	

WHITE - OFFICE MASTER / YELLOW - ASSESSORS / PINK - APPLICANT



**ATTACHMENT "C"**  
**Planning Commission Resolution**

## RESOLUTION NO. 2024-0045

**A RESOLUTION OF THE PLANNING COMMISSION OF THE COUNTY OF IMPERIAL, CALIFORNIA, APPROVING “TIME EXTENSION #24-0040” FOR A NEW (1-YEAR) TERM UNDER “CONDITIONAL USE PERMIT #23-0013” FOR PHOENIX 1, LLC.**

**WHEREAS**, Phoenix 1, LLC, has submitted Time Extension #24-0040 requesting a new 1-year term for the workover and testing of two (2) existing geothermal wells; and,

**WHEREAS**, the well workover and testing activity was previously approved under Conditional Use Permit #23-0013; and,

**WHEREAS**, the project is categorically exempt in accordance with section 15301 of the requirements of the California Environmental Quality Act, the State Guidelines, and the County’s “Rules and Regulations to Implement CEQA as Amended”; and,

**WHEREAS**, the Planning Commission of the County of Imperial has been delegated with the responsibility of CEQA determinations, and adoptions and certifications of CEQA documents; and,

**WHEREAS**, public notice of said request has been given, and the Planning Commission has considered evidence presented by the Imperial County Planning & Development Services Department and other interested parties at a public hearing held with respect to this item on January 22, 2025; and,

**NOW, THEREFORE**, the Planning Commission of the County of Imperial **DOES HEREBY RESOLVE** as follows:

**SECTION 1.** The Planning Commission has considered the proposed Time Extension #24-0040 request for Conditional Use Permit #23-0013 prior to approval. The Planning Commission finds and determines that the Time Extension for Conditional Use Permit #23-0013 is adequate and prepared in accordance with the requirements of the Imperial County General Plan, Land Use Ordinance and the California Environmental Quality Act (CEQA), which analyses environmental effects, based upon the following findings and determinations.

**SECTION 2.** That in accordance with State Planning and Zoning law and the County of Imperial regulations, the following findings for approving Time Extension #24-0040 have been made as follows:

**A. The proposed use is consistent with goals and policies of the adopted County General Plan.**

The General Plan designates the subject site as “Agriculture” per Imperial County’s General Plan, Land Use Element, and it is currently zoned A-2-R (General Agriculture with Rural Zone) and A-3

(Heavy Agriculture) by the Imperial County Land Use Ordinance. The Time Extension request is found consistent with the approved Conditional Use Permit #23-0013 and with the goals/policies of the General Plan.

**B. The proposed use is consistent with the purpose of the zone or sub-zone within which the use will be used.**

The Project could be found consistent with the General Plan as the existing wells and well pads are an allowed use within both the A-2-R (General Agriculture in Rural Zone) and A-3 (Heavy Agriculture) zone designations with an approved Conditional Use Permit per the Imperial County Land Use Ordinance, Sections 90508.02 and 90509.02, as is the proposed reworking and testing of the wells.

**C. The proposed use is listed as a use within the zone or sub-zone or is found to be similar to a listed or similar conditional use according to the procedures of Section 90203.00.**

The reworking of the existing geothermal wells permitted under CUP #23-0013 and previously permitted under CUP(G) #09-0002 could be found consistent with the Imperial County Land Use Ordinance as geothermal wells are an allowed use within both the A-2-R and A-3 zones with an approved Conditional Use Permit.

**D. The proposed use meets the minimum requirements of this Title applicable to the use and complies with all applicable laws, ordinances and regulation of the County of Imperial and the State of California.**

The Project complies with the minimum requirements of this Title. The project complies with the applicable laws by obtaining a CUP pursuant to Title 9, Division 5, and Section 90508.02 and 90509.02. The Conditions of Approval will further ensure that the project complies with all applicable regulations of the County of Imperial and the State of California. Therefore, the proposed project meets the minimum requirements of the Land Use Ordinance, Section 90508.02 and 90509.02.

**E. The proposed use will not be detrimental to the health, safety, and welfare of the public or to the property and residents in the vicinity.**

The proposed reworking of the existing previously approved geothermal wells for a temporary 14-week period would not result in significant impacts to surrounding properties or residents due to the conditions of approval.

**F. The proposed use does not violate any other law or ordinance.**

The project will continue to be subject to the Conditional Use Permit and current Federal, State, and Local regulations; the subject use does not violate any law or ordinance.

**G. The proposed use is not granting a special privilege.**

The project is a permitted use subject to approval of a Conditional Use Permit #23-0013 under Land Use Ordinance, Section 90203.00 and 90508.00 *et. seq.* and will not grant a special privilege.

**NOW, THEREFORE**, based on the above findings, the Imperial County Planning Commission **DOES HEREBY APPROVE** Time Extension #24-0040 for a new 1-year term under Conditional Use Permit #23-0013, subject to the existing Conditions of Approval.

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**Rudy Schaffner, Chairperson**  
Imperial County Planning Commission

I hereby certify that the preceding resolution was taken by the Planning Commission at a meeting conducted on January 22, 2025, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

ATTEST:

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**Jim Minnick, Director of Planning & Development Services**  
Secretary to the Planning Commission

**ATTACHMENT "D"**

**Amendment #2 to CUP #23-0013**



1 When Recorded Return To:

2 \_\_\_\_\_  
3 Imperial County  
4 Planning & Development Services  
5 801 Main Street  
6 El Centro, California 92243  
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**AMENDMENT #2 TO  
CONDITIONAL USE PERMIT #23-0013  
PHOENIX 1, LLC  
APN(s) 039-080-004-000, 039-080-005-000 & 039-080-006  
January 22, 2025**

**WHEREAS;** Amendment #2 is being made to update **Condition G-5** to allow for a new one year time limit until February 13, 2026 as approved by the Planning Commission on January 22, 2025:

**G-5 TIME LIMIT:**

Unless otherwise specified within the project's specific conditions ~~this CUP shall be limited to a maximum of 4 months from the Effective Date of the CUP.~~ The CUP may be administratively extended for successive 4 months by the Planning Director upon a finding by the Planning & Development Services Department that the project is in full and complete compliance with all conditions of the CUP and any applicable land use regulation(s) and extension fees of the County of Imperial. Unless specified otherwise herein no CUP shall be extended for more than two (2) consecutive 4 month periods. **This CUP shall be limited to a maximum of 1 year from the Effective Date of February 13, 2025.** An extension of this CUP shall not be granted if the project is in violation of any one or all of the conditions or if there is a history of non-compliance with the project conditions.

**WHEREAS;** CUP #23-0013 is fully described and conditioned under originally recorded Document #2024002109 dated February 13, 2024.

**WHEREAS;** CUP #23-0013 entails the proposed rework of two (2) existing geothermal wells previously approved under CUP(G) #09-0002 for the temporary purpose of flow and resource testing of geothermal brine for a period of 14 weeks within three (3) privately-owned parcel in Imperial County.

1           **NOW THEREFORE**, County hereby issues the Amendment #2 to Conditional Use  
2 Permit #23-0013, and Permittee hereby accepts such permit upon the terms and  
3 conditions set forth herein.

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11 **IN WITNESS THEREOF**, the parties hereto have executed this Agreement the day and  
12 year first written.

13 **PERMITTEE:**

14 Phoenix 1, LLC  
15 4001 Kennett Pike, Suite 302  
16 Wilmington, DE 19807

17  
18 \_\_\_\_\_  
19 Arnold Wolf

\_\_\_\_\_ Date

20  
21 **COUNTY OF IMPERIAL, a political subdivision of the STATE OF CALIFORNIA**

22  
23 \_\_\_\_\_  
24 James A. Minnick,  
25 Director, Planning & Development Services  
26 Department

\_\_\_\_\_ Date

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**PERMITTEE NOTARIZATION**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_ } S.S.

On \_\_\_\_\_ before me, \_\_\_\_\_ a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, who proved to on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature \_\_\_\_\_

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

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Title or Type of Document \_\_\_\_\_

Number of Pages \_\_\_\_\_ Date of Document \_\_\_\_\_

Signer(s) Other Than Named Above \_\_\_\_\_

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**COUNTY NOTARIZATION**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF IMPERIAL } S.S.

On \_\_\_\_\_ before me, \_\_\_\_\_ a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature \_\_\_\_\_

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

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Signer(s) Other Than Named Above \_\_\_\_\_

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**ATTACHMENT "E"**  
**Conditional Use Permit**  
**#23-0013**



1 When Recorded Return To:

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3 Imperial County  
4 Planning & Development Services  
5 801 Main Street  
6 El Centro, California 92243  
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**AMENDMENT #1 TO  
CONDITIONAL USE PERMIT #23-0013  
PHOENIX 1, LLC  
APN(s) 039-080-004-000, 039-080-005-000 & 039-080-006  
JUNE 2024**

**WHEREAS;** Amendment #1 is being made to update the Permittee's name, from Desert Milling, Inc. to **Phoenix 1, LLC**, a Delaware limited liability company.

**WHEREAS;** CUP #23-0013 is fully described and conditioned under originally recorded Document #2024002109 dated February 13, 2024.

**WHEREAS;** CUP #23-0013 entails the proposed rework of two (2) existing geothermal wells previously approved under CUP(G) #09-0002 for the temporary purpose of flow and resource testing of geothermal brine for a period of 14 weeks within three (3) a privately-owned parcel in Imperial County.

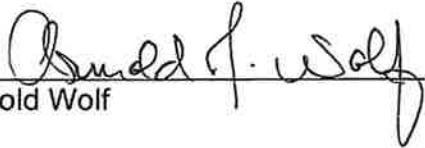
**NOW THEREFORE,** County hereby issues the Amendment #1 to Conditional Use Permit #23-0013, and Permittee hereby accepts such permit upon the terms and conditions set forth herein.

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**IN WITNESS THEREOF**, the parties hereto have executed this Agreement the day and year first written.

**PERMITTEE:**

Phoenix 1, LLC  
4001 Kennett Pike, Suite 302  
Wilmington, DE 19807

  
Arnold Wolf

June 18, 2024  
Date

**COUNTY OF IMPERIAL, a political subdivision of the STATE OF CALIFORNIA**

  
James A. Minnick,  
Director, Planning & Development Services  
Department

6/27/24  
Date

1 **PERMITTEE NOTARIZATION**

2 A notary public or other officer completing this certificate verifies only the identity of the individual who  
3 signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that  
4 document.

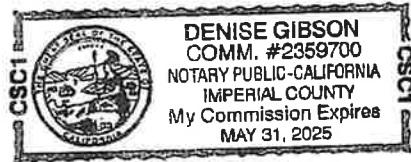
5 STATE OF CALIFORNIA

6 COUNTY OF Imperial } S.S.

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8 On June 18, 2024 before me, Denise Gibson a Notary  
9 Public in and for said County and State, personally appeared  
10 Arnold Wolf, who proved to on the basis of  
11 satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument  
12 and acknowledged to me that he/she/they executed the same in his/her/their authorized  
13 capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity  
14 upon behalf of which the person(s) acted, executed the instrument.

15 I certify under PENALTY OF PERJURY under the laws of the State of California that the  
16 foregoing paragraph is true and correct.

17 WITNESS my hand and official seal



18 Signature Denise Gibson

19 ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could  
20 prevent fraudulent attachment of this certificate to unauthorized document.

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22 Title or Type of Document \_\_\_\_\_

23 Number of Pages \_\_\_\_\_ Date of Document \_\_\_\_\_

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**COUNTY NOTARIZATION**

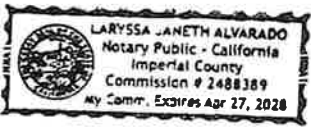
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF IMPERIAL } S.S.

On June 27, 2024 before me, Laryssa Janeth Alvarado a Notary Public in and for said County and State, personally appeared James A Minnick, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in (his)/her/their authorized capacity(ies), and that by (his)/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal



Signature [Handwritten Signature]

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

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Title or Type of Document amendment to CUP 23-0013  
Number of Pages 4 Date of Document 06/27/24  
Signer(s) Other Than Named Above Arnold wulf

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When Recorded Return To:

Imperial County Planning & Development  
Services Department  
801 Main Street  
El Centro, California 92243

Recorded In Official Records,  
IMPERIAL COUNTY  
Doc#: 2024002109  
02/13/2024 09:57 AM

**AGREEMENT FOR CONDITIONAL USE PERMIT #23-0013  
FOR  
PHOENIX 1, LLC.  
TEMPORARY TESTING OF EXISTING GEOTHERMAL TEST WELLS  
Planning Commission Approved Conditions (12/13/2023)  
Effective Date (02/13/2024)**

Conditional Use Permit #23-0013 was approved by the Imperial County  Planning  
Commission  Board of Supervisors and has the Effective Date of February 13, 2024.

This Conditional Use Permit is by and between Desert Milling Inc. - (hereinafter referred to  
as "Permittee"), and the COUNTY OF IMPERIAL, a political subdivision of the State of  
California, (hereinafter referred to as "COUNTY").

**RECITALS**

**WHEREAS**, Permittee is the owner, lessee or successor in interest in certain land in  
Imperial County located at 2300 Farr Rd., Brawley, CA 92227 Section 20, T13S, R16E,  
S.B.B.M, in an unincorporated area of the County of Imperial. The Assessor's Parcel  
Numbers are 039-080-004-000, 039-080-005-000 and 039-080-006; and,

**WHEREAS**, Permittee has applied to the County for permission to rework two (2)  
existing geothermal wells previously approved under CUP(G) #09-0002 for the temporary  
purpose of flow and resource testing of the geothermal brine for a period of 14 weeks; and,

**WHEREAS**, the County, after a noticed public hearing, agreed to issue  
Conditional Use Permit #23-0013 to Permittee, and/or his or her successor in interest  
subject to the following conditions:



**GENERAL CONDITIONS:****G-1 GENERAL LAWS:**

The Permittee shall obtain, comply with and maintain all applicable County, State, and federal laws, rules, regulations, ordinances, and/or standards as they may pertain to this project whether specified herein or not.

**G-2 EFFECTIVE DATE:**

The approved Conditional Use Permit shall not become effective until ten (10) calendar days after the decision of the Planning Director or Commission. Further the Conditional Use Permit shall not be effective until applicable conditions have been met, and the Conditional Use Permit is recorded with the County Recorder, with payment of recording fees being paid by applicant. In the case of a decision by the Board of Supervisors there is no 10-day appeal period.

**G-3 RECORDATION:**

CUP #23-0013 shall **not be effective** until it is recorded at the Imperial County Recorder's Office and if no appeal has been made after approval from the hearing body. Payment of the recordation fee shall be the responsibility of the Permittee. If this CUP is not recorded within one hundred eighty (180) days from the date of approval the CUP shall be deemed null and void, without notice having to be provided to Permittee. Permittee may submit a written request for a recordation extension for this CUP by filing such a request with the Planning Director at least sixty (60) days prior to the one hundred eighty 180-day expiration. The Director may approve one (1) extension for a period not to exceed one hundred eighty (180) days. An extension may not be granted if the request for an extension is filed after the expiration date. Failure to record this CUP within one (1) year including the granted extension period shall deem this CUP null and void.

**G-4 COMMENCEMENT OF WORK:**

If the project for which a CUP has been approved has not commenced, or permits for said project have not been issued, within one (1) year from effective date, the CUP shall be null and void. If an applicant cannot initiate or obtain permits for the approved use during the one (1) year, applicant may request a one (1) year extension from the Department. The request for an extension shall be in writing and be submitted with explanation to the Planning & Development Services Department at least sixty days prior to the end of the extended one (1) year period. The Director shall have the authority to extend the initial start-up period, or commencement of work, of a CUP up to two (2) times for a maximum of two (2) years. Should the Permittee desire to continue with the project, a new application shall be submitted, and the entire process would have to begin anew.

**G-5 TIME LIMIT:**

Unless otherwise specified within the project's specific conditions **this CUP shall be limited to a maximum of 4 months from the Effective Date of the CUP.** The CUP may be administratively extended for successive 4 months by the Planning Director upon a finding by the Planning & Development Services Department that the project is in full and complete compliance with all conditions of the CUP and any applicable land use regulation(s) and extension fees of the County of Imperial. Unless specified otherwise herein no CUP shall be extended for more than two (2) consecutive 4 month periods. **An extension of this CUP shall not be granted if the project is in violation of any one or all of the conditions or if there is a history of non-compliance with the project conditions.**

**G-6 ABANDONMENT:**

If a CUP has been unused, abandoned, discontinued, or ceased for one (1) year, the CUP shall be null and void, and be of no effect. Notice to applicant/permittee under this division will not be required or provided by the Department.

**G-7 PERMIT/LICENSE:**

Permittee shall obtain and comply with any and all required permits, licenses, and/or approvals, for the construction and/or operation of this project. This shall include, but shall NOT be limited to, permits from the County Division of Environmental Health Services (EHS), Planning & Development Services Department, Office of Emergency Services (OES), Imperial County Air Pollution Control District (ICAPCD) and Public Works Department. Permittee shall likewise comply with all such permit requirements for the life of the project. **Additionally, Permittee shall submit a copy of such additional permit(s) and/or license(s) to the Planning & Development Services Department within 60-days of receipt, including amendments or alternatives thereto.**

**G-8 APPROVALS AND CONDITIONS SUBSEQUENT TO GRANTING PERMIT:**

Permittee acceptance of this CUP shall be deemed to constitute agreement with the terms and conditions contained herein. Where a requirement is imposed in this CUP that Permittee conduct a monitoring program, and where the County has reserved the right to impose or modify conditions with which the Permittee must comply based on data obtained therefrom, or where the Permittee is required to prepare specific plans for County approval and disagreement arises, the Permittee, operator and/or agent, the Planning and Development Services Director or other affected party, to be determined by the Planning and Development Services Director, may request that a hearing be conducted before the Imperial County Planning Commission whereby they may state the requirements which will implement the applicable conditions as intended herein. Upon receipt of a request, the Planning

1 Commission shall conduct a hearing and make a written determination. The  
2 Planning Commission may request support and advice from a technical advisory  
3 committee. Failure to take any action shall constitute endorsement of the staff's  
determination with respect to implementation.

4 **G-9 CONDITION PRIORITY:**

5 This project shall be constructed/operated as described in the CUP application, the  
6 environmental documents, the project description, and as specified in these  
conditions. Where a conflict occurs, the CUP conditions shall govern.

7 **G-10 INDEMNIFICATION:**

8 As part of this application, applicant and real party in interest, if different, agree to  
9 defend, indemnify, hold harmless, and release the County of Imperial ("County"), its  
10 agents, officers, attorneys, and employees (including consultants) from any claim,  
11 action, or proceeding brought against any of them, the purpose of which is to attack,  
12 set aside, void, or annul the approval of this application or adoption of the  
13 environmental document which accompanies it. This indemnification obligation  
14 shall include, but not be limited to, damages, costs, expenses, attorney fees, or  
15 expert witness fees that may be asserted by any person or entity, including the  
16 applicant, arising out of or in connection with the approval of this application,  
17 whether or not there is concurrent negligence on the part of the County, its agents,  
officers, attorneys, or employees (including consultants).

18 If any claim, action, or proceeding is brought against the County, its agents, officers,  
19 attorneys, or employees (including consultants), to attack, set aside, void, or annul  
20 the approval of the application or adoption of the environmental document which  
21 accompanies it, then the following procedures shall apply:

- 22 1. The Planning Director shall promptly notify the County Board of Supervisors of  
23 any claim, action or proceeding brought by an applicant challenging the County's  
24 action. The County, its agents, attorneys and employees (including consultants)  
25 shall fully cooperate in the defense of that action.
- 26 2. The County shall have the final determination on how to best defend the case  
27 and will consult with applicant regularly regarding status and the plan for defense.  
28 The County will also consult and discuss with applicant the counsel to be used by  
County to defend it, either with in-house counsel, or by retaining outside counsel  
provided that the County shall have the final decision on the counsel retained to  
defend it. Applicant shall be fully responsible for all costs incurred. Applicant  
shall be entitled to provide his or her own counsel to defend the case, and said  
independent counsel shall work with County Counsel to provide a joint defense.

29 **G-11 INSURANCE:**

1 The Permittee shall take out and maintain workers compensation insurance as  
2 required by the State of California. The Permittee shall also secure liability  
3 insurance and such other insurance as required by state and/or federal law. A  
4 Certificate of Insurance is to be provided to the Planning and Development Services  
5 Department by the insurance carrier and said insurance and certificate shall be kept  
6 current for the life of the project. Certificates of Insurance shall be sent directly to  
7 the Planning and Development Services Department by the insurance carrier and  
8 shall name the Department as a recipient of both renewal and cancellation notices.

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10 **G-12 RIGHT OF ENTRY:**

11 The County reserves the right to enter the premises at any time, announced or  
12 unannounced, in order to make the appropriate inspection(s) and to determine if the  
13 condition(s) of this CUP are complied with. Access by authorized enforcement  
14 agency personnel shall not be denied.

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16 **G-13 SEVERABILITY:**

17 Should any condition(s) of this CUP be determined by a Court or other agency with  
18 proper jurisdiction to be invalid for any reason, such determination shall not  
19 invalidate the remaining provision(s) of this CUP.

20  
21 **G-14 PROVISION TO RUN WITH LAND:**

22 The provisions of this CUP are to run with the land/project and shall bind the current  
23 and future owner(s) successor(s) of interest; assignee(s) and/or transferee(s) of  
24 said CUP. **Permittee shall not without prior notification to the Planning &  
25 Development Services Department assign, sell, or transfer, or grant control of  
26 CUP or any right or privilege therein.** The Permittee shall provide a minimum of  
27 60 days written notice prior to such proposed transfer becoming effective. The  
28 permitted use identified herein is limited for use upon this parcel described herein  
and may not be transferred to another parcel.

29  
30 **G-15 COMPLIANCE/REVOCAION:**

31 Upon the determination by the Planning & Development Services Department that  
32 the project is or may not be in full compliance with any one or all of the conditions of  
33 this CUP, or upon the finding that the project is creating a nuisance as defined by  
34 law, the issue shall be brought immediately to the appropriate enforcement agency  
35 or to the Planning Commission for hearing to consider appropriate response  
36 including but not limited to the revocation of the CUP or to consider possible  
37 amendments to the CUP. The hearing shall be held upon due notice having been  
38 provided to the Permittee and to the public in accordance with established  
ordinance/policy.

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40 **G-16 NON-COMPLIANCE (ENFORCEMENT & TERMINATION):**

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Should the Permittee violate any condition herein, the County shall give written notice of such violation and actions required of Permittee to correct such violation. If Permittee does not act to correct the identified violation within forty-five (45) days after written notice, County may revoke the CUP. If Permittee pursues correction of such violation with reasonable diligence, the County may extend the cure period. Upon such revocation, County may, at its sole discretion, cease processing, defending any lawsuit or paying for costs associated with the Project.

**G-17 COSTS:**

Permittee shall pay any and all amounts determined by the County to defray any and all cost(s) for the review of reports, field investigations, monitoring, and other activities directly related to the enforcement/monitoring for compliance of this CUP, County Ordinance or any other applicable law. Any billing against this project, now or in the future, by the Planning & Development Services Department or any County Department for costs incurred as a result of this CUP, shall be billed through the Planning & Development Services Department.

**G-18 REPORT(S)**

Permittee shall file an annual report with the Planning and Development Services Department to show that Permittee is in full compliance with this CUP. The report shall be filed at least fifteen (15) days prior to the anniversary (recordation date) of this CUP. It shall be the responsibility of the Permittee to provide all reports and to include the information about other users. The County may request information at any time from the Permittee or other users if applicable; however, it shall be the responsibility of the Permittee to assure that the County receives such information in a timely manner.

**G-19 RESPONSIBLE AGENT**

Permittee shall maintain on file with the Planning and Development Services Department the name and phone number of the responsible agent for the site. A back-up name shall also be provided, and a phone number for twenty-four (24) hour emergency contact shall also be on file. If there are other users, the same information (as applicable) required from the Permittee shall also be made available to the County from such other users.

**G-20 WATER AND SEWER:**

Permittee shall provide water and sewer to Federal, State and County standards. Water and sewer systems shall be approved by the Environmental Health Services and the Planning & Development Services Department. Permittee shall hook up to a public water system or supplier if and when available.



1 **G-21 DEFINITIONS:**

2 In the event of a dispute, the meaning(s) or the intent of any word(s) phrase(s)  
3 and/or conditions or sections herein shall be determined by the Planning  
4 Commission of the County of Imperial. Their determination shall be final unless an  
5 appeal is made to the Board of Supervisors ten (10) days from the date of their  
6 decision.

6 **G-22 SPECIFICITY:**

7 The issuance of this CUP does not authorize the Permittee to construct or operate  
8 this project in violation of any state, federal, local law nor beyond the specified  
9 boundaries of the project as shown in the application/project description/ CUP, nor  
10 shall this CUP allow any accessory or ancillary use not specified herein. This CUP  
11 does not provide any prescriptive right or use to the Permittee for future addition  
12 and/or modification to this project.

11 **G-23 HEALTH HAZARD:**

12 If the County Health Officer determines that a significant health hazard exists to the  
13 public, the County Health Officer may require appropriate measures and the  
14 Permittee shall implement such measures to mitigate the health hazard. If the  
15 hazard to the public is determined to be imminent, such measures may be imposed  
16 immediately and may include temporary suspension of the subject operations.  
17 However, within forty-five (45) days of any such suspension of operations, the  
18 measures imposed by the County Health Officer must be submitted to the Planning  
19 Commission for review and approval. Nothing shall prohibit Permittee from  
20 requesting a special Planning Commission meeting provided Permittee bears all  
21 costs.

18 **G-24 CHANGE OF OWNER/OPERATOR:**

19 In the event the ownership of the site or the operation of the site transfers from the  
20 current Permittee to a new successor Permittee, the successor Permittee shall be  
21 bound by all terms and conditions of this CUP as if said successor was the original  
22 Permittee. The current Permittee shall inform the County Planning & Development  
23 Services Department in writing at least sixty (60) days prior to any such transfer.  
24 Failure of a notice of change of ownership or change of operator shall be grounds  
25 for the immediate revocation of the CUP. In the event of a change, the new  
26 Owner/Operator shall file with the Department, via certified mail, a letter stating that  
27 they are fully aware of all conditions and acknowledge that they will adhere to all.

25 **G-25 PERMITS OF OTHER AGENCIES INCORPORATED:**

26 Permits granted by other governmental agencies in connection with the Project are  
27 incorporated herein by reference. The County reserves the right to apply conditions  
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of those permits, as the County deems appropriate; provided, however, that enforcement of a permit granted by another governmental agency shall require concurrence by the respective agency. Permittee shall provide to the County, upon request, copies and amendments of all such permits.

**G-26 MINOR AMENDMENTS:**

The Planning Director may approve minor changes or administrative extensions, as requested in writing by the Permittee, provided it does not result in additional environmental impacts and/or are generally procedural or technical and/or which may be necessary to comply with other government permit compliance requirements.

(TOTAL "G" CONDITIONS are 26)

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**PROJECT SPECIFIC CONDITIONS:****S-1 PROJECT DESCRIPTION:**

The CUP authorizes the Permittee to workover (repair, redrill and/or clean out as/if needed) the existing Orita 2 and Orita 4 geothermal wells previously approved under CUP(G) #09-0002 within the limits of the associated existing well pads as well as the proposed pipeline routes connecting the wells, as shown in the project application. The project is to take place for a 14-week period consisting of 2 weeks for well workover and 12 weeks of flow and resource testing. Upon project completion all equipment shall be removed from the well pads, along with all pipeline connecting the wells.

**S-2 LIGHT & GLARE:**

Permittee is allowed to have security as well as operational lighting. Said lighting shall be shielded and directed to on-site areas only to minimize off-site impacts due to unacceptable levels of light or glare.

**S-3 WASTE DISPOSAL:**

Permittee shall insure that any discharged waste, liquid or solid, shall be disposed of in compliance with all appropriate local, state, and federal regulations.

**S-4 BIOLOGICAL RESOURCES:**

A Biological Survey Report dated August 16, 2023, identified 4 active burrowing owl burrows located around the Orita 4 well. Therefore, the following mitigation measures shall be implemented:

**BIO-1:** Avoiding project activities during the nesting season (February 1 – August 31) and conducting project activities as far from existing burrows as possible outside of the nesting season (September 1 – January 21).

**BIO-2:** A biologist will be required to be onsite to determine if the burrows are active during project activities and monitor the burrowing owls at burrows located at the well pads for signs of distress during equipment mobilization and the first day of well workover activities. Hay or straw bales may be installed between the burrows and project activities to reduce the potential for disturbance to owls from project activities. The biologist should monitor the burrowing owls weekly and if the biologist determines that the project does not cause disturbance or distress for owls, the monitoring may cease on approval from the County.

**S-5 NOISE:**

Noise mitigation measures to be implemented are as follows:

**NOI-1:** If applicable, the project would be required to use mufflers on noise producing equipment that does not already have that equipment installed.

**NOI-2:** The well pads can erect haybales along the edges of the well pads on the sides to the closest property lines. On 039-080-004-000 this would be the southern boundary and 039-080-006-000 this would be the western and southern boundary.

**S-6 DUST CONTROL AND AIR DISTRICT PERMITS:1**

Permittee shall comply with all Air Pollution Control District (APCD) rules and regulations with emphasis on Regulation VIII – Fugitive Dust Rules. The permittee shall obtain all required Air District permits from APCD.

**S-7 HAZARDOUS CHEMICALS**

Any hazardous and potentially hazardous chemicals or substances shall be reported to the Imperial County Certified Unified Program Agencies (CUPA).  
[dtsc.ca.gov/imperial-county-cupa](http://dtsc.ca.gov/imperial-county-cupa)

**S-8 PUBLIC WORKS:2**

**A** - An Imperial County encroachment permit for the work within the County Road right of ways of Farr Road and Irvine Road.

**B** - The proposed pipeline route needs a formal review process through either plan check or encroachment permit before any approvals can be committed to. This includes proposed routing outside County Road right of way, existing or future.

**S-9 IMPERIAL IRRIGATION DISTRICT:3**

**A** – The Permittee will submit to IID water Department Engineering Services Section the project plans for review prior to final project design

**B** – The Permittee must apply for a temporary water account for construction water.

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1 APCD letter Dated June 20, 2023

2 Public Works Letter Dated October 12, 2023

3 Imperial Irrigation District letter dated June 20, 2023

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**C** – The Permittee is required to obtain an encroachment permit.

**S-10 RESTORATION SURETY:**

**A** - Upon the completion of the project or expiration of the CUP, Permittee shall restore the well pads upon which the project is located back to its current unoccupied condition as well as the removal of all pipelines. To ensure that such restoration is completed, Permittee shall provide security that is in conformance with the County’s Financial Assurance Guideline, is acceptable to the Office of County Counsel, and in an amount not less than \$120,000. Said security shall cover Permittee.

**B** - The security shall remain in effect until the project has been completely removed, and the well pads have been fully restored to its current unoccupied condition and all pipeline has been removed.

(TOTAL “S” CONDITIONS are 10)

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**NOW THEREFORE**, County hereby issues Conditional Use Permit #23-0013 and Permittee hereby accepts such permit upon the terms and conditions set forth herein.

**IN WITNESS THEREOF**, the parties hereto have executed this Agreement the day and year first written.

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**PERMITTEE:**

Phoenix 1 LLC

By: Arnold Wolf  
Arnold Wolf

Feb. 5, 2024  
Date

**COUNTY OF IMPERIAL, a political subdivision of the STATE OF CALIFORNIA:**

By: James Minnick  
JAMES MINNICK, Director  
Planning & Development Services Department

2/13/24  
Date

**FOR PERMITTEE NOTARIZATION**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF Imperial } S.S.

On February 5, 2024 before me, Gina D. DeForest, a Notary Public in and for said County and State, personally appeared Arnold J. Wolf, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing is true and correct.

WITNESS my hand and official seal



Signature Gina D. DeForest

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

Title or Type of Document Agreement for C.U.P. # 23-0013

Number of Pages 14 Date of Document December 13, 2023

Signer(s) Other Than Named Above \_\_\_\_\_

Dated February 5, 2024

**FOR COUNTY NOTARIZATION**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.


STATE OF CALIFORNIA  
COUNTY OF IMPERIAL } S.S.

On Feb 13, 2024 before me, Melissa O. Pacheco a Notary Public in and for said County and State, personally appeared James A. Minnick who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature



ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to unauthorized document.

Title or Type of Document CUP # 23-0013.

Number of Pages 14 Date of Document 02-13-2024

Signer(s) Other Than Named Above Arnold Wolf



**ATTACHMENT "F"**  
**Time Extension Request**



Mr. Jim Minnick

December 09, 2024

Imperial County Planning & Development Services  
801 Main Street  
El Centro, CA 92243

Re: Renewal Request for CUP23-0013 (Phoenix 1 LLC. Orita Wells Conditional Use Permit Application)

Dear Mr. Minnick,

Phoenix 1 LLC, a wholly owned subsidiary of Phoenix Lithium (Phoenix), is requesting a renewal of Conditional Use Permit CUP23-0013. The need for the request stems from constraints related to protected species (Burrowing Owl nesting season), as well as scheduling challenges with available drilling contractors. Specific details related to workover activity scheduling challenges are as follows:

Oil Well Service Company (OWS) was contracted to conduct well workover activities related to Orita 2 and Orita 4 immediately after the Burrowing Owl nesting season ended on August 31, 2024. Unfortunately, OWS was not able to task a workover rig to the site as early as requested due to well workover challenges at an unrelated location. As you may be aware, drilling companies provide estimated start dates only and remain on a well until the assigned tasks have been completed, even if this pushes the schedule for other clients waiting in their queue.

OWS arrived at the Orita 2 well site on October 3, 2024 and began cleanout activities within two days. After minimal success at Orita 2, OWS moved to Orita 4 where, again, only minimal well workover success was achieved. OWS completed demobilization on October 24, 2024.

As a contingency, in the event that efforts with OWS were deemed less than satisfactory, Phoenix began discussions with Kenai Drilling Limited (Kenai) in July of 2024. Kenai is familiar with working in the Imperial Valley and maintains a drilling rig (rig 16) in the I.V. year-round, servicing BHER and their wellfield. Unfortunately for Phoenix that means rig 16 was fully committed and not available to support our goals. Kenai had a second rig under contract to work in Coso, California in H2 2024 and was willing to move that rig (rig 44) to East Brawley after completing work at that location. Phoenix contracted with Kenai to mobilize rig 44 to the Orita 4 well site on November 27, 2024 and begin well workover activities on December 4<sup>th</sup>.

On November 15<sup>th</sup>, Kenai informed Phoenix they could no longer commit to arriving at the agreed upon date, due to "down-hole" difficulties they were facing in Coso. Said difficulties persisted into late December. Kenai claims to have now overcome said challenges and now believes their equipment will begin to arrive at the Orita 4 well site on January 27, 2025 and begin workover activities on February 1<sup>st</sup>, barring any

additional/surprise difficulties in Coso. If Kenai does arrive on January 27<sup>th</sup>, and experiences no delaying difficulties while executing the work, CUP related activities would be completed approximately fourteen weeks from that date.

Accompanying this request is an invoice for CUP renewal fees, as well as a check for the invoiced amount (\$2,500.00).

Sincerely,



Arnold Wolf  
Director, Project Execution  
Phoenix Lithium LLC  
[aw@phoenixlithium.com](mailto:aw@phoenixlithium.com)  
(904) 735-5304

cc: Robert Martinez

attachments