

**MINUTES OF THE
PLANNING COMMISSION MEETING
May 22, 2019**

The Imperial County Planning Commission convened a Meeting on Wednesday, May 22, 2019 at 9:00 a.m. in the Board of Supervisors Chambers, El Centro, California.

Staff present: Director, Jim Minnick; Assistant Director, Michael Abraham; Planner I, Mariela Moran; Planner III, Diana Robinson; Planner IV, Patricia Valenzuela; Clerk, Michelle Garcia; Clerk, Gabriela Robb; and GIS Tech, Derek Newland.

Chairman Rudy Schaffner called meeting to order at 9:00 a.m.

I. Roll Call: Commissioners present: Schaffner, Kalin, Bergh, Cabañas, Castillo, Wright, Zendejas, & Roben

Absent: Medina & Zuno

II. Pledge of Allegiance:

III. Approval of Minutes: Chairman Schaffner entertained a motion to approve the Planning Commission Minutes for May 8, 2019.

Jim Minnick, They are not ready.

Chairman Schaffner, Ok, we will save that for next time. If anyone is going to speak on any of the items today, you need to go to the back of the room and fill out a yellow speaker form and bring it up to the clerk. You will be given three minutes to speak on any of the items today.

1. Consideration of Lot Line Adjustment #00306 as submitted by Sharon A. Price, proposing to adjust the boundary of two fields with Assessor's Parcel Number(s) 055-190-077-000 and 055-190-008-000 to separate the existing residence from the farmable land. On property legally described as the East half of the Southeast Quarter of Southeast Quarter, except the West one ROD thereof; and East half of Northeast Quarter of the Southeast Quarter of Section 23; and the West half of the Northeast Quarter of the Southeast Quarter of Section 23, Township 16 South, Range 15 East, San Bernardino Base and Meridian respectively, in an unincorporated area of the County of Imperial, State of California. Assessor's Parcel Number (s) (A) 055-190-077-000 & (B) 055-190-008-000, (1203 Orchard Rd., Holtville, CA.), (Supervisory District #5);

Jim Minnick, gave a brief description of the project, and introduced Mariela Moran, Planner I to read the project into the record.

Mariela Moran, Planner I, read the project into the record and was there to answer any questions from the Commission.

Chairman Schaffner, Asked the representative to come forward to the podium, introduce themselves and state their name and address for the record.

Taylor Preece, Precision Engineering & Surveying, stated he read and agreed with the project and the conditions of approval.

Chairman Schaffner, opened/closed the public portion of the meeting, he then turned it over to the commission for any questions or comments.

Chairman Schaffner, entertained a motion.

- a. Motion made by Commissioner **Kalin** and seconded by Commissioner **Cabañas** on the affirmative vote by the Commissioners present; Schaffner (yes), Kalin (yes), Bergh (yes), Cabañas (yes), Castillo (yes), Wright (yes), Zendejas (yes), & Roben (yes); to find that the project is categorically exempt from CEQA per Article 19, Section 15305 (a) Minor Alternations to Land Use Limitations of CEQA and the no further environmental documentation if necessary; and find that Lot Line Adjustment #00306 is consistent with applicable zoning and building ordinance; and make the findings and approve Lot Line Adjustment #00306; subject to the conditions.

Jim Minnick, Director, stated that the project stands approved by this Commission, should the applicant or any member of the public wish to appeal this decision, they must do so within the next 10 days.

2. Consideration of **Conditional Use Permit #19-0005** as submitted by Palo Verde County Water District (PVCWD), who is proposing to replace two (2) existing water wells with two (2) new water wells (with all associated appurtenances, including electrical components) within the Palo Verde Water Treatment Plant and Distribution System, which is a public water system that supplies treated groundwater to a small community in Palo Verde. On property legally described as a portion of Section 13, 14, 23 and 24 Township 9 South, Range 13 East; S.B.B.M. Assessor's Parcel Number(s) 006-120-089-000, (572 Ben Hulse Hwy, Palo Verde, CA.), (Supervisorial District #5);

Jim Minnick, gave a brief description of the project, and introduced Diana Robinson, Planner III to read the project into the record.

Diana Robinson, Planner III, read the project into the record and was there to answer any questions from the Commission.

Chairman Schaffner, Asked the representative to come forward to the podium, introduce themselves, state their name and address for the record, and asked if they had any other comments or questions.

Jan Ayala, Board Member for Palo Verde Water District, stated she read and agreed with the project and the conditions of approval. Ms. Ayala stated they need this approval as soon as possible, as it is the only water for their town and their tanks only hold a week's worth of water.

Chairman Schaffner, opened/closed the public portion of the meeting, he then turned it over to the commission for any questions or comments.

Chairman Schaffner, entertained a motion.

- b. Motion made by Commissioner **Kalin** and seconded by Commissioner **Cabañas** on the affirmative vote by the Commissioners present; Schaffner (yes), Kalin (yes), Bergh (yes), Cabañas (yes), Castillo (yes), Wright (yes), Zendejas (yes), & Roben

(yes); to adopt the Negative Declaration by finding that the proposed project would not have a significant effect on the environment as recommended by the Environmental Evaluation Committee on April 25, 2019; make the De Minimus Findings, as recommended at the April 25, 2019 EEC Hearing, that the project will not individually or cumulatively have an adverse effect on Fish and Wildlife Resources, as defined in Section 711.2 of the Fish and Game Code; and to approve the Resolution(s), supporting findings, approving Conditional Use Permit #19-0005 (subject to all the conditions), and authorize the Planning and Development Services Director to sign the CUP contract upon receipt from the permittee.

Jim Minnick, Director, stated that the project stands approved by this Commission, should the applicant or any member of the public wish to appeal this decision, they must do so within the next 10 days.

3. Consideration of **Parcel Map #02481** as submitted by Precision Engineering & Surveying on behalf of Gonzalez and Pineda. Applicant is requesting under Parcel Map #02481 a parcel split into two parcels for the existing two residences on property under CUP#04-0002. The existing property totals approximately 5 acres and the proposed division of said property is to create two (2) approximately equal 2.5 acre parcels. On property legally described as the West half of the Southwest quarter of the West half of Tract 188, Township 17 South, Range 15 East, S.B.B.M. Assessor's Parcel Number(s) 059-200-020-000, (1303 B East Highway 98, Calexico CA 9223, Supervisorial District #1);

Jim Minnick, gave a brief description of the project, and introduced Mariela Moran, Planner I to read the project into the record.

Mariela Moran, Planner I, read the project into the record and was there to answer any questions from the Commission.

Chairman Schaffner, Asked the representative to come forward to the podium, introduce themselves and state their name and address for the record.

Taylor Preece, Precision Engineering & Surveying, stated he read and agreed with the project and the conditions of approval.

Chairman Schaffner, opened/closed the public portion of the meeting, he then turned it over to the commission for any questions or comments.

Commissioner Castillo, Stated the commissioners received a comment letter, and asked for clarification on the problem stated in the letter.

Mariela Moran, Stated that she spoke with Taylor Preece, who spoke with the applicant, and they stated they are working on the maintenance of the canal.

Commissioner Castillo, Asked if the decision the commissioners make will affect the existing situation.

Mariela Moran, Stated that the decision the commissioners make today will not affect the existing situation.

Chairman Schaffner, entertained a motion.

- c. Motion made by Commissioner **Kalin** and seconded by Commissioner **Cabañas** on the affirmative vote by the Commissioners present; Schaffner (yes), Kalin (yes), Bergh (yes), Cabañas (yes), Castillo (yes), Wright (yes), Zendejas (yes), & Roben (yes); to adopt the Negative Declaration on the basis of the initial study and any comments received showing no substantial evidence that the project will have a significant effect on the environment as determined by the Environment Evaluation Committee (EEC) on April 25, 2019; and make the De Minimis findings as recommended by the April 28, 2019 EEC hearing, that the project will not individually or cumulatively have an adverse effect on Fish and Wildlife Resources, as defined in Section 711.2 of the Fish and Game Code; and to adopt the Resolution and supporting findings, approving Parcel Map #02481, subject to all the conditions and authorize the Planning & Development Services Department to sign the Parcel Map upon receipt from the Permittee.

Jim Minnick, Director, stated that the project stands approved by this Commission, should the applicant or any member of the public wish to appeal this decision, they must do so within the next 10 days.

4. Consideration of **Addendum #2 to USG Final EIR/EIS** as submitted by United States Gypsum Co. who propose to revise (Per Court Order) mitigation measures 3.3-1 and 3.3-2 to reduce potential groundwater impacts to individual wells in the Ocotillo Coyote Wells Groundwater Basin of the U.S. Gypsum Company Expansion/Modernization project approved by Imperial County March 18, 2008. The project consists of 2 parcels #034-360-091 & 034-360-048-000 totaling 320 acres located at COC PM2313 North ½ of the South ½ of Section 8, Township 16 South Range 11 East, (3810 W Evan Hewes Highway, Plaster City, CA), (Supervisory District #2);

Jim Minnick, gave a brief description of the project, and introduced Patricia Valenzuela, Planner IV to read the project into the record.

Patricia Valenzuela, Planner IV, read the project into the record and was there to answer any questions from the Commission, and introduced the consultant Cheryl Tubbs, to present the remainder of the project.

Cheryl Tubbs, Vice President of Lilburn Corporation, read the remainder of the project into the record and was there to answer any questions from the Commission.

Commissioner Castillo, Asked if Plaster City is within the boundaries of the IID.

Cheryl Tubbs, Stated that her understanding is that LAFCO took action to revise the service area of IID to include the alignment of the pipeline and the Plaster City plant.

Commissioner Castillo, Asked what the IID says about the project.

Cheryl Tubbs, Stated the IID is negotiating an agreement with USG to provide them with up to 1,000 acre feet of water per year.

Commissioner Castillo, Asked how much are they taking from the three wells.

Cheryl Tubbs, Stated they are taking 300 to 400 acre feet at the most.

Commissioner Castillo, Asked to clarify that IID has agreed to service them with up to 1,000 acre feet of water.

Cheryl Tubbs, Confirmed that IID has agreed to provide them with up to 1,000.

Commissioner Castillo, Asked if there would be a need for the wells in Ocotillo.

Cheryl Tubbs, Stated that USG has indicated that they would need some of the groundwater to blend with the IID water because the quality of the Colorado River water is not the same as the groundwater. They have initiated a preliminary design of the pipeline, the alignment it would follow, and some treatment facilities at the plant. The treatment would include some blending with the ground water wells. They have not finished the design.

Commissioner Castillo, Asked if there is a percentage of what the blend of ground water to IID water will be.

Cheryl Tubbs, Stated they do not have a percentage yet.

Jim Minnick, Stated the plant expansion was proposed back in 1998. At the time, US Gypsum was using around 350-380 acre feet per year. In the early 70's, they had gone up to 767 acre feet per year. Today, they are asking for that amount of water in order to expand their plant. The markets are dictating 300-400 acre feet, but in order to operate their full plant, they can take up to 700 acre feet of water. So, that is where the blending is coming in.

Cheryl Tubbs, Stated they would need the Ocotillo wells for the domestic water supply for operations at the plant.

Chairman Schaffner, Asked the representative to come forward to the podium, introduce themselves and state their name and address for the record, and asked if they had any other comments or questions.

Luis Parazco, Plant Manager of United States Gypsum Plaster City Facility, stated he read and agreed with the project and the conditions of approval and had a few comments regarding the project. He stated, the addendum and proposed mitigation measures concern the expansion and modernization of the USG Plaster City Plant and associated operations in the Fish Creek Mountains. A project which was approved and largely completed nearly two decades ago. The project has allowed USG to continue to meet current and future demand for Gypsum building products through the region and to further develop the Gypsum reserves at the quarry in an environmentally sensitive manner. We are very proud of the fact that the plant and quarry provide over 400 local jobs and generate over 13 million dollars per year for business for local suppliers and over 2 million dollars per year in local tax and regulatory revenues. USG recognizes the importance of safeguarding the environment. Among other things, USG has consistently strived to reduce its water consumption, energy use, and air emissions. The mitigation measures that are under consideration today reflect USG's commitment to working with local authorities to address environmental concerns. These seven measures were born out of good faith settlement discussions between USG, the County, and the Sierra Club, which began in earnest in late 2017, and include invaluable input from hydrologist with Todd Groundwater as well as the Sierra Club's hydrologist Wiland & Associates. Subsequently our land use attorney, John Bowman, will provide you with a brief overview of the mitigation measures. While the mitigation measures and the related procedures are somewhat complex, no one should lose sight of the fact that the hallmark of these measures is the implementation partial use alternative from our certified EIR, which will facilitate the use of IID water for a substantial portion of USG's water supply needs. Therefore, ensuring that USG's use of water from the Ocotillo Coyote Wells Basin will return to baseline

levels. It will be an expensive undertaking, and it won't be easy given that IID water must be treated before it can be used for wallboard production processes. But, we've already completed a substantial amount of engineering work, and we know we can make it work. Provided, that we are able to obtain all necessary permits and approvals from the appropriate federal state and local public agencies, I can assure you that if this addendum is adopted and mitigation measures are approved by the County, USG is committed to pursuing all such permits and approvals expeditiously and in good faith in accordance with the terms of the settlement agreement. Lastly, I would like to thank you for the opportunity to comment.

John Bowman, USG Land Use Council, stated the proposed mitigation measures are a result of many months of hard work, good faith discussions between representatives of Sierra Club, USG, and the County, with substantial input from the party's respective hydrologist. Including Todd Groundwater. I'd like to take this opportunity on behalf of USG to thank everyone who was involved in that process. As Luis mentioned and as you know, the proposed mitigation measures are a bit complex and a little technical. I would like to summarize the key provisions. First and foremost, measure 3.3-1-A, requires that USG apply for and diligently pursue all permits that are required to implement the Partial Use Alternative. The agencies that will be involved in that project are primarily BLM, California Fish & Wildlife, and the IID. We do need to obtain one last approval from them and that's the service agreement. This measure also includes specified time limits and reporting requirements to ensure that this process stays on track. Once we've obtained the permits and approvals that are required then, under the mitigation measure, USG must complete the construction of the necessary infrastructure and implement the Partial Use Alternative within a period of two years. Then, following a very brief break in period, USG would be required to limit it's usage of water from the Ocotillo Coyote Wells Basin to baseline levels, which is defined as 347 acre feet a year averaged over 5 consecutive years. This measure also provides that if, after a period of 3 years, if USG has been diligently pursuing all the permits that are needed to implement the Partial Use Alternative. If the County determines that after a public hearing, based on substantial evidence that it would be futile to continue to pursue those permits, then only under that circumstance would US Gypsum no longer be required to implement and pursue the Partial Use Alternative. That provision is there for one reason, and it is that we can't control the decisions that are made by the other agencies. We have absolutely no reason to believe we won't get those permits. Next, mitigation measure 3.3-1-B is a more technical measure that is designed to deal with the potential temporary impacts on groundwater levels due to pumping causing a decline in the groundwater levels in the immediate vicinity of USG's production wells. That measure includes certain specific limitations and standards developed by the hydrologist, Todd Groundwater and peer reviewed by Wiedlin and Associates. Next, we have mitigation measure 3.3-1-C. That measure requires that USG continue to carryout its monitoring program, which was described in the 2008 Final EIR and USG has been implementing and has been submitting annual reports pursuant to that program. This measure also adds some additional requirements to that monitoring program, including an opportunity for other well owners in the basin to have their wells included in that program and it expands the reporting requirements by USG. It's important to know that this mitigation measure continues in effect for the life of the project regardless of whether the Partial Use Alternative is implemented. Next, is mitigation measure 3.3-1-D. This is a very important addition and it represents a new approach to the mitigation. Specifically, early on in our discussion, the County made it very clear that it would not accept a situation where there are potential impacts to a well that we would find as not mitigated. Instead, what the parties developed was this mitigation measure provides an early warning system. It is designed to ensure the

impacts don't occur in the first place. It does that by establishing new and rigorous performance standards and various reporting requirements. If there is an exceedance of any of the performance standards and a trend occurs, then a detailed assessment study is conducted by experts and peer reviewed by the County's experts to determine what the cause of the trend is. If the assessment indicates that the negative trend is attributable to USG's pumping, then this mitigation measure would require that USG reduce its pumping to baseline levels. This applies during the period while we're pursuing the Partial Use Alternative and would continue to apply in the unlikely event that the Partial Use Alternative is not implemented. Mitigation measure 3.3-1-E and 3.3-1-F are new and improved versions of the mitigation measures that were in the 2008 Final EIR. These are designed to specify the steps that will be taken when there is evidence that an impact has occurred. It requires USG to look at various options including the possibility of rehabilitating the well, replacing the well, well head treatment, and a variety of other things specified to deal with that situation. Because of mitigation measure 3.3-1-D we don't anticipate that will happen, but those are there as a backup. Finally, measure 3.3-1-G, requires that the Groundwater Monitoring Program be further revised and augmented, and that additional performance standards apply, in the unlikely event that the County determines that pursuing the permits and approvals for the Partial Use Alternative would be futile. This measure is designed to focus on whether there is adverse change in the gradients between the alluvial water and the Palm Springs Formations. It requires a number of things, including, additional monitoring wells that may have to be installed under that scenario. In summary, we believe that these seven measures will ensure that the project will not have significant impacts on individual groundwater wells in the Ocotillo-Coyote Wells basin, and we urge the Planning Commission to recommend that the Addendum EIR and the proposed mitigation measures be adopted. Our team is here to answer any questions that the commission may have. We also have a representative for Todd Groundwater, so if there are any technical questions, I can pass it over to her.

Commissioner Castillo, asked what guarantee USG has with the IID that they will provide the water.

John Bowman, stated there is no guarantee. But, in 2008 they did approve an annexation of the service area to pick up the plant. They also passed a resolution authorizing up to 1,000 acre feet. We've had conversations with IID periodically, and every time they have assured us that they don't see any issue with us obtaining a water supply agreement. Is it going to be 1,000 acre feet? We don't know. We're very confident we will be able to get enough to implement the Partial Use Alternative.

Commissioner Castillo, asked if Mr. Bowman can guesstimate how long it will take to get the IID agreement.

John Bowman, stated that the boundaries have already been adjusted, and that the only step left with the IID process is entering into a service agreement for the water. Which has already been said, shouldn't be a problem and is the easiest of the approvals we need. It's essentially already been teed up.

Commissioner Castillo, asked Jim Minnick if the pipeline would be within the County right of way.

Jim Minnick, stated that can be done or they it can be run along the rail line.

Commissioner Castillo, asked if USG had a problem getting a right of way from BLM, could the County grant it.

Jim Minnick, stated they would need to ask the County Roads Commissioner in regards to what kind of criteria the State put on it.

Chairman Schaffner, opened the public comment and informed speakers that they would each have three minutes to speak.

Chairman Cabañas, called Bill Pate to the speaker's podium.

Bill Pate, Part time resident of Ocotillo since 1986, stated that Mr. Castillo had various questions and I don't believe they were answered or answered truthfully. Something you're not being told is that mitigation measure number 2 isn't a mitigation measure at all. It allows United States Gypsum, during the roughly four year period in which they are trying to obtain these permits and construct the pipeline, to increase the pumping up to 767 acre feet and possibly as high as 96 acre feet a month. That isn't a mitigation measure. I don't know if anybody has read the law, which is a published decision that came down in 2013. The settlement agreement is not the law. You cannot create a settlement agreement to somehow create a mitigation measure and make it legal. The court said that creating a non-solution that exacerbates the problems with the overdraft water quality rather than mitigate them, isn't a mitigation measure. So, the second mitigation measure allows them to increase the pumping to 767 acre feet a year for four years while they go out and try to get these good faith permits. Now, the good faith permits, is not enough to have a mitigation measure that isn't guaranteed and that is deferred into some time in the future. That's illegal. The court already answered that question back in 2013 stating, the County as a lead agency has committed itself to specific goals - The replacement of water lost by neighboring land owners because of the operations. However, this goal is not specific enough. It is not guaranteed to occur. I heard Ms. Tubbs say that they will hook up to IID. That isn't guaranteed by the terms of the mitigation measure or the settlement agreement. Therefore, both of those items are illegal. What does all this mean for the future? I looked at USG's website, they were recently bought by a German company named Knauf and that deal went through in April. They have no allegiance to this area. Why not create jobs and force the pipeline to be constructed. We can do something in law which is called, maintain the status quo. All you have to do as commissioners, is take a step back, let's put this on hold like it's been on hold for twenty years, and say that mitigation measure number 1 has to say that they will use IID water. Right now there are no specifics as to how much water they're forced to use or how much water IID can supply.

Commissioner Cabañas, stated that the Mr. Pate's three minute time limit was up.

Bill Pate, stated that the water agreement isn't even in place. Vote it down and let's maintain the status quo because this is an eighty year permit. Kids born today will be looking at that aquifer and ask, what happened? This generation is the one that's going to ruin that area.

Chairman Schaffner and Commissioner Cabañas, stated that Mr. Pate's time was up.

Bill Pate, continued and stated that the commissioners should think about the history and to think about what they will tell their kids eighty years from now.

Chairman Cabañas, called Jim Pelley to the speaker's podium.

Jim Pelley, President of the Ocotillo Mutual Water Company, one of the two mutual water companies in Ocotillo stated, that water is our most precious resource in the desert. No water means no community. Each year the water companies together use approximately forty acre feet of water for a total of 262 residential connections. US Gypsum is requesting to take 347 to 767 acre feet of water annually. This equates to 8 to 19 years of water loss for our community in one year's time. The federally protected aquifer is not getting significantly recharged. At this point, it's nothing but a big holding tank. When it's gone, it's gone. Well depths continue to decline. I have not heard of any well that has seen an increase in water level. Since 1925 US Gypsum has pumped somewhere in the neighborhood of 20,000 acre feet of water from our sole source aquifer. This is not only disgracefully unethical, it's illegal. To put this into perspective, one acre feet of water is about the size of a football field one foot high. Imagine a column of water the size of a football field and as tall as the tip of a wind turbine at its highest point. That's about the amount of water they are talking about using in one year. In San Diego County, one acre foot of water cost approximately 2,000 dollars. 20,000 acre feet of water, which is the amount of water they have used since 1925, at 2,000 dollars per acre foot of water is about 40 million dollars' worth of water they have received, for free. We are not here today to ask for money for our water, it is not for sale. US Gypsum had in fact received a right of way permit from BLM back in 1981 to get water from the IID canal but did nothing with it and it expired. Why should we believe they are going to do the right thing now? This is something that should've been done years ago. Taking pristine drinking water from the low income town of Ocotillo and depleting our only water source, is something that cannot be mitigated. This has been going on too long already and needs to stop. It's time for the Imperial County to do the right thing and not approve this very controversial project. We have seen the results of the reckless decision that approved the Ocotillo Wind Energy Facility has been nothing but a complete failure. Thank you for your time.

Commissioner Cabañas, called Greg O'Donnell to the speaker's podium.

Greg O'Donnell, Part time Ocotillo resident, stated I want to thank everyone for doing hard work on all sides. I know this has been a hot issue but I'm here to discuss the premise of this whole thing. The very premise that started this whole thing is questionable because it doesn't have all the adequate information. Back in April 26, 1994, there was an Ocotillo Nomirage Community Area Plan that was approved by the Board and signed off by the planning director, Mr. Heuberger. They mentioned in this report that the population due to water constraints is not anticipated to grow. They noticed there was a decline in water quality in some areas of the basin and there is only certain areas of the basin where the water is pure. You take that water and suck it down, you bring in the saline water from the edges and it starts going back the other way, then the water is contaminated and it could be permanent. In objective 5.8 it says the County will work with US Gypsum and the Imperial Irrigation District to examine other water sources that can be used at the USG manufacturing plant and reduce their dependence on groundwater. That was back in 1995. They were given a homework assignment back then and evidently they weren't going to Catholic school and had a couple nuns standing over them saying to get your assignment done. So, if this wasn't done back then, and there's no teeth in the agreement, how is this going to be implemented or improved? If I'm a water predator I can go get the water, make my gypsum, and get out. I don't care about whatever is left behind. The corporation goes in and drains the aquifer, then goes on and moves to another area to do the same thing. If people can be buffaloed into going along with it, then that's great. The next thing I would like to point out is in objective 5.9; prohibit land uses which consume large quantities of water such as golf courses, water theme parks and agriculture. So, back then they knew they had a water issue.

Commissioner Cabañas, stated that Mr. O'Donnell's time limit was up.

Greg O'Donnell, continued to say that in March 2006, Mr. Heuberger granted USG a historical use of 767 acre feet of water using unverifiable documented information. You'll see that there is a variance in there and it shows there is no way they can prove they ever used that much water to establish that. Then, he wrote up a document, took it to the Board, and the Board approved it.

Commissioner Cabañas, called Arnold Hernandez to the speaker's podium.

Arnold Hernandez, Resident of Ocotillo, stated I'm concerned about the water use as well as the mitigation process. I know of people whose wells are dry and they can only operate for twenty minutes. My well fluctuates and will start sucking a lot of sand. I've had to go through a couple of pumps because of this process. I'm not a big industry so I can't do much. I'm just a regular home owner. I thought we weren't supposed to export any water from the area, but I guess it is happening. Our groundwater is suffering and I would like to just mention that I've spoken to a lot of people in the Nomirage area about their wells going dry. Thank you.

Commissioner Cabañas, called Edie Harmon to the speaker's podium.

Edie Harmon, Ocotillo resident, stated I want to add the reason IID requested a right of way from BLM in 1981 was because there was a proposal to put a cement plant adjacent to Plaster City and there was such an uproar about the proposal to increase exported groundwater from Ocotillo. My understanding is that people went to Congress, got an approval, and in 1981 BLM granted IID a right of way to run a water pipeline and electricity from the west side main canal to Plaster City. I served on the Integrated Regional Water Management Plan (IRWMP) as the only groundwater user and representative of any environmental organization and IID made sure that I understood that if there is a problem with the water quality or water availability in Ocotillo, there will never be a drop of Colorado River water provided for the people of Ocotillo. It means the end of the community as we know it. They can't run water uphill to Ocotillo any more than they can run water to Borrego Springs. That's something to consider. My well is monitored for both water quality and water quantity. The first well was impacted and the water level dropped thirty feet because of the export to Mexico. The replacement well has continually shown an increase in groundwater level. It's taken more than thirty-five years to get close to what the water level was before export went on for five years. So, I am very sensitive to the fact that wells can be tremendously impacted in terms of water level and water quality. That well experienced an export of 100-140 acre feet per year but it affected all of the domestic wells in the subdivision. I would like to ask that the Procedures for Determining the Cause of an Impact be added to the addendum. It was part of the Settlement Agreement and it was not mentioned in anything I can recall reading in the addendum. I haven't seen what the responses to my comments were on the last one, but I think it's critically important that people understand that there is a set of procedures in place that is of real concern to well owners in the Ocotillo area. I did attend the meetings and I have accept that after twenty years I have done my best.

Commissioner Cabañas, stated that Ms. Harmon's time limit was up.

Chairman Schaffner, stated that there was a gentleman that came to one of the meetings. The gentleman was from Calexico and somewhat of an expert on water in Mexico and here. He was saying that on the other side of the border from Ocotillo, there were big pipes that flowed openly for years and he was highly suggesting that we get someone to close them. Did they ever do anything about that?

Edie Harmon, stated the groundwater on the Mexico side of the border gets recharged at Pinto Canyon in the Jacumba Mountain Wilderness and from Guadalupe Canyon in Mexico. They have recharge from areas with much heavier rainfall that are not available to the Ocotillo groundwater basin. I spoke with John Izbicki, from USGS that does groundwater recharge studies for communities and areas that are asking. He has told me that there is no real recharge in the Ocotillo basin. We've had three or more hundred year rain storms and floods where there has been a lot of standing water, especially adjacent to Nomirage. But, we've never seen a water level increase as a result of standing water even where the groundwater is shallow. The only place that I've observed groundwater levels increasing are where there's saline water. Not where there is portable groundwater in the areas where there's private property.

Chairman Schaffner, stated that Ms. Harmon's time limit was up and thanked her for answering his question.

Commissioner Castillo, stated that the gentleman Chairman Schaffner was asking about is Raul Estrada.

Chairman Schaffner, called the project representative to the speaker's podium to address some of the public's issues.

Commissioner Bergh, stated that he has some questions for the Todd Group.

John Bowman, stated there are a number of points made and would like to start with the Court of Appeals decision that Mr. Pate was referencing. I think it's important to understand that there is nothing in that decision that dictates what the County must do other than adopt new mitigation measures in place of mitigation measures the court found inadequate. There's nothing in the decision that requires the County to curtail groundwater use. It simply says come back with mitigation measures that will ensure when these impacts occur that the impacts be mitigated. The biggest issue in that case, was that the prior mitigation measures relied heavily on one particular mitigation concept. That's the idea of replacing water if a well is impacted, with bottled water. The court found that is not adequate because, it doesn't put the water level back in the same position as it were prior to the impact. On that basis, the court said to the County, come back with better mitigation measures. The County has been working on that ever since and that is what ultimately led to the settlement discussions and the very detailed mitigation measures that are before you. Those mitigation measures do include water curtailment. It's tied to specific performance measures as I eluded to earlier, specific conditions that would require that curtailment, and ultimately its design to facilitate getting a partial use alternative, which means we're back to baseline and there's no impact by definition under CEQA. The only other thing I want to touch on for clarification is that there was a lot of comment and confusion about the 767 acre feet of water. It is true that is the highest amount that was reported by US Gypsum back in the 70s. It is also true that the 2008 Final EIR discusses that number and points to the fact that there is evidence to the contrary. There's a question about that reporting data. We accept and understand that. What's important to understand about that number is there is nothing in the EIR that assumed the accuracy of that information. The EIR took a very conservation approach, ignored that number, and didn't treat it as baseline. They used the five years running up to the 1998 approval and averaged that. That's where the 347 came from. The 767 number really doesn't factor into the analysis and it doesn't factor into these mitigation measures. That's simply what USG proposed the maximum amount of water that they would ever use back when they first proposed this project in 1998. We don't know if we will ever use that much. We haven't since the approval and in fact,

last year I heard it was under 400. I think in 2005 it might have peaked up over 400 but, the fact is, we haven't used that much and we probably won't. That is a proposal and if we go beyond that we need a Conditional Use Permit, which we don't intend to approach. I think there is a misunderstanding about that. It's what was proposed, but the fact is that the mitigation measures ensure that we're only going to use the water we can use in an environmentally sustainable way. There was some suggestion that perhaps these mitigation measures don't have teeth. I disagree, all of the specific mitigation measures would be enforceable by the County and the Sierra Club pursuant to the settlement agreement and I have no doubt that the Sierra Club will be looking over our shoulder. I don't think the enforceability of these mitigation measures is an issue. I'm happy to answer any questions you might have.

Commissioner Bergh, stated that he would like to hear from Todd Group.

Iris Prestaff, President of Todd Groundwater, stated that she is available to answer questions.

Commissioner Bergh, asked who monitors the level of the aquifer?

Iris Prestaff, stated the groundwater level monitoring is being conducted by US Gypsum and by USGS.

Commissioner Bergh, asked if either one of them found a declination as far as water levels over the last twenty years?

Iris Prestaff, stated that they have been charting a slow decline in groundwater levels.

Commissioner Bergh, asked about the last year?

Iris Prestaff, stated that she would have to look back at the 2018 report. Not every well has the same groundwater level trends.

Chairman Schaffner, allowed another speaker to approach the podium.

Rob Carty, Nomirage Resident, stated that over the last five years, my wells have decreased about six feet. Mainly over the last year and a half it has decreased 4 to 4 ½ feet. I know my neighbor's well has gone down substantially more over the last ten years. To take underground aquifer that is already decreasing and pump an extra thirteen million gallons would be kind of foolish. It seems like it would dry up all the wells. I apologize that I'm not as researched as some of the other speakers.

Chairman Schaffner, asked if Mr. Carty thinks it would be a good thing if IID can get water sent over.

Rob Carty, stated that it seems like a no brainer. I know that the people in San Diego pay by the gallon, so why shouldn't everybody pay by the gallon? Why should one owner be able to pump as much groundwater as they want out and dry out the aquifer for everybody else?

Commissioner Bergh, asked how much Mr. Carty's well has dropped.

Rob Carty, stated that one well has dropped six feet and the other has dropped five and a half feet.

Commissioner Bergh, asked Mr. Carty if he can determine why.

Rob Carty, stated that it has happened from the groundwater going down.

Commissioner Bergh, asked Mr. Carty if he can point at one group or the other for the reason of his water well going down.

Rob Carty, stated that he isn't blaming anyone and he is simply stating that the water level is decreasing. I'm dropping a sounding rod down and I'm measuring how deep the well itself is. So the well hasn't gotten any shallower, but the water level has gone down substantially.

Commissioner Kalin, asked Mr. Carty if his well is being monitored by US Gypsum.

Rob Carty, stated that his well is not being monitored by US Gypsum.

Commissioner Kalin, asked Mr. Carty if there is a reason he is not a part of the monitoring program.

Rob Carty, stated that he just bought the property so he's been going off of what the previous owners were measuring at.

Commissioner Kalin, asked Mr. Carty if he would be willing to have USGS come and install monitoring systems on his well.

Rob Carty, stated that he wouldn't be adverse to it. He would need to do more research on it.

Commissioner Bergh, stated to Jim Minnick that he thought the wells are supposed to be monitored by the County.

Jim Minnick, stated the County doesn't monitor all the wells in Ocotillo.

Commissioner Bergh, asked why. I live in the City of El Centro and my water is measured by the inch. You're talking about a limited aquifer. I'm just saying that when wells are dug in the Valley the County always makes sure a monitoring device is attached to that well. Is that for commercial use only?

Chairman Schaffner, stated that we monitor the amount of water they use.

Jim Minnick, stated that we monitor the amount of water an operator uses. But, you're asking if the wells are monitored by the standpoint of USGS going out and doing testing.

Commissioner Bergh, clarified that he is just asking about the County.

Jim Minnick, stated that all water wells that are permitted through ICPDS are supposed to report to us every three years with a report on what they're using. The actual resident is responsible for that.

Commissioner Bergh, asked Mr. Carty if he reports every three years to ICPDS.

Rob Carty, stated that he does not.

Jim Minnick, stated that we usually catch it on the three year renewals. But, there are wells out there that have not been permitted by the County.

Chairman Schaffner, closed the public comment and asked the commissioners if they had any questions or comments.

Commissioner Castillo, asked if it was possible to postpone the decision until we get more definite answers from the IID and the County as far as the right of way concern. Apparently, the

right of way is expired and it seemed easier to have the County approve the right of way for a pipeline.

Jim Minnick, stated that he will refer to County Counsel. We know that it is under court order to finish the process, and I'm not sure where we are on that status.

Adam Crook, County Counsel, stated that is possible to postpone the proceeding if you require more information. We would just like to remind you that part of this mitigation measure is going through that whole process of acquiring these permits and approvals. Postponing this for another two weeks, probably isn't going to be beneficial in that aspect. This whole permitting process is supposed to take approximately up to two years. Yes, you can postpone, but I'm not sure how beneficial it will be at this point.

Jim Minnick, stated that the exercise is to get permission to do this. That's why the condition is written the way it is. They can proceed and go through this process.

Commissioner Castillo, stated that there seems to be too many loose ends and there should be some more definite answers. We get water, permission, and approval from IID and have the right of way in place.

Commissioner Kalin, stated that this assures the IID that when US Gypsum goes to negotiate with them, that the County is in line with doing this now. That's why we're doing this. Is that correct, Jim?

Jim Minnick, stated yes.

Commissioner Kalin, stated that we need to go through this step in order for US Gypsum to go to the next step and begin the negotiation with IID and acquire the rest of the permits that they need.

Chairman Schaffner, stated that if we don't make a decision today, we are holding up the process.

Commissioner Castillo, stated that in other words, they can't proceed with getting approvals unless we approve it here.

Jim Minnick, stated that the Board will approve this. We are recommending to the Board.

Commissioner Castillo, asked Jim Minnick what he recommends.

Jim Minnick, stated that as per the staff report, he recommends that this proceeds forward to the Board.

Commissioner Castillo, stated that gives assurance to the people in Ocotillo that nothing will be done until approvals are issued.

Jim Minnick, stated that based on condition number 1, the idea is to get permissions to put in this line, so that there is a blended water source. Which will allow US Gypsum to operate at a larger capacity than they currently do.

Chairman Schaffner, stated the quicker they get that line in, the better.

Someone from the audience began asking questions for the commissioners.

Chairman Schaffner, stated that the public comment portion was closed.

The same gentleman from the audience proceeded to address the commissioners.

Chairman Schaffner, had to use his gavel to call order and proceeded to ask for a motion.

- d. Motion made by Commissioner **Kalin** and seconded by Commissioner **Bergh** on the affirmative vote by the Commissioners present; Schaffner (yes), Kalin (yes), Bergh (yes), Cabañas (yes), Castillo (yes), Wright (yes), Zendejas (yes), & Roben (yes); to recommend to the Board of Supervisors to adopt the Resolutions and supporting findings for Addendum #2 to the Final USG EIR/EIS for the U.S Gypsum Company expansion/modernization project.

Jim Minnick, Director, stated there was no appeal for this project since it was recommended to the Board of Supervisors.

Chairman Schaffner, stated that he has been in this commission for twenty plus years and that is the first time he has had to gavel the crowd.

Public Comments:	NONE
Commissioner Comments:	NONE
Director Comments:	NONE
Adjournment:	Meeting adjourned at 9:12 a.m.



Submitted by Rudy Schaffner;
Chairman of the Planning Commission

Attest:



Jim Minnick, Director of
Imperial County Planning Commission

Gabriela Robb, PC Recording Clerk

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