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Find Application and Data Inadequate, Pause Review Pending Adjudication, Deny SPPE Exemption due to Significant Adverse Impacts

Please see the attached comment letter submitted on behalf of Taxpayers for Accountability for Our Groundwater, a grassroots citizens group representing hundreds of residents of the Indian Wells Valley who are deeply concerned with local groundwater sustainability and its impact on our quality of life and local economic development.

The attached letter fully outlines, in depth, each of our concerns about the referenced project as local residents and taxpayers with a long-term stake in our valley, and in projects that we believe pose a significant adverse environmental impact on our communities and valley. To facilitate a better understanding of these by the many decision-makers who may be involved in evaluating this project, we have provided the Comment Letter Overview below, which outlines a few of the key and most pressing issues of our group and community. Please note that this is not a comprehensive summary, and additional items of concern are outlined in the attached letter.

TAOG Comment Letter Overview

The California Energy Commission may grant a Small Power Plant Exemption only upon an affirmative finding that the project will cause no substantial adverse impact on the environment or energy resources (Pub. Resources Code Â§ 25541; 20 CCR Â§ 1936). Under the governing CEQA "fair argument" standard, full environmental review is required wherever the record contains substantial evidence that the project may have a significant effect, even if other evidence points the other way. The record here, built largely from the applicant's own filings, supplies that evidence many times over. Any one of the four grounds below independently defeats the exemption; together, we believe that they make a full Application for Certification (AFC) review mandatory.

1. Unlawful piecemealing and capacity above the SPPE threshold
The applicant's own investor materials described an ~198 MW buildout (with mapped Phase 2 parcels, APNs 352-201-49 through -52), while the application presents a campus engineered to stop at exactly 99 MW, one megawatt below the 100 MW threshold for mandatory AFC review. The application also concedes 120 MW of installed nameplate generation (forty 3 MW diesel gensets, N+2), held under 100 MW only by a private contractual interconnection cap. This is the "gaming the system" CEQA forbids, and the physical footprint that drives environmental impact is the installed equipment, not the contractual cap. (Letter Section I.)

2. Water supply measured against the wrong baseline, in the wrong basin
The Water Supply Assessment attaches the wrong basin's Groundwater Sustainability

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June 2, 2026

California Energy Commission

Re: RB Inyokern Data Center – Docket No. 26-SPPE-01

Subject: Request for Denial of Small Power Plant Exemption and Mandatory Full Application for Certification, Including Comprehensive Environmental Review Based on Multiple Significant Adverse Environmental Impacts, and Temporary Administrative Abeyance Pending Completion of Groundwater Adjudication

Dear Commissioners,

I am writing on behalf of Taxpayers for Accountability for Our Groundwater, a grassroots citizens group representing hundreds of residents of the Indian Wells Valley who are deeply concerned with local groundwater sustainability and its impact on our quality of life and local economic development.

As a preliminary matter, we respectfully ask the Commission to keep in mind that we are concerned citizens, not attorneys or technical experts. We have made a good-faith effort to research and accurately describe the legal standards, regulatory citations, scientific data, and project facts discussed below that address our concerns as local community members, but we recognize that some of our characterizations may contain minor errors or imprecision in technical or legal matters. We respectfully request that the Commission consider the substance of our concerns on their merits, and that any inadvertent error in a citation, figure, or legal description not be treated as a basis for disregarding the underlying concern, the section in which it appears, or this comment as a whole. Where our understanding is imperfect, we ask the Commission and its staff, who possess the relevant expertise, to evaluate the genuine environmental and public-interest questions we raise.

We respectfully request that the California Energy Commission (CEC) deny the requested Small Power Plant Exemption (SPPE) for the proposed RB Inyokern Data Center and instead require the full Application for Certification (AFC) process, including a comprehensive environmental review equivalent to a full Environmental Impact Report (EIR) under the California Environmental Quality Act (CEQA).

Under 20 California Code of Regulations § 1936, the CEC may grant an SPPE only upon a finding that the proposed facility will not create any substantial adverse impact on the environment or energy resources. The proposed project fails to meet this standard on multiple, independent grounds. The application materials contain a materially deficient Water Supply Assessment, an incomplete project description that artificially excludes reasonably foreseeable

expansion phases and incorrectly assesses thermal load of the proposed generation, and no meaningful analysis of numerous significant adverse environmental impacts, any one of which would be sufficient to require a full AFC. Taken together, the record before the Commission is far from capable of supporting compliance with SPPE load limits or the required no-significant-impact finding.

Two legal standards frame every concern below. First, the SPPE statute itself (Pub. Resources Code § 25541; 20 CCR §§ 1934, 1936) authorizes the Commission to exempt a facility of 50 to 100 MW from the full AFC process only upon an affirmative finding that the project will create no substantial adverse impact on the environment or on energy resources. A single significant impact that cannot be clearly avoided or mitigated is disqualifying. Second, in conducting the CEQA review that underlies that finding, the Commission is bound by the "fair argument" standard: where the record contains substantial evidence supporting a fair argument that the project may have a significant effect on the environment, full environmental review is required even if other evidence in the record would support a contrary conclusion (No Oil, Inc. v. City of Los Angeles (1974) 13 Cal.3d 68; Friends of "B" Street v. City of Hayward (1980) 106 Cal.App.3d 988; Pocket Protectors v. City of Sacramento (2004) 124 Cal.App.4th 903). The concerns documented below – supported by the applicant's own filings, public records, agency determinations, and peer-reviewed literature – individually and collectively constitute exactly such substantial evidence. Under both standards, the correct course is to deny the exemption and refer the project to the full AFC process.

The concerns detailed in this letter include: unlawful project segmentation and piecemealing; failure to comply with Senate Bill 610 water supply requirements; groundwater depletion and SGMA compliance; localized groundwater and water quality impacts; the unreliability of the will-serve letter issued by the Inyokern Community Services District (ICSD); land use and zoning incompatibility; noise and vibration; air quality; greenhouse gas emissions; waste heat and heat island effects; light pollution; electrical grid reliability and ratepayer impacts; traffic and road safety; seismic resilience; hazardous materials and fire safety; national security and supply chain vulnerabilities; impacts on nearby homes, schools, and businesses; environmental justice; cumulative and growth-inducing impacts; the absence of any alternatives analysis; impacts to wildlife and special-status species; tribal and cultural resources; and the incompleteness of the environmental record. Each concern is addressed in turn below.

I. Unlawful Project Segmentation/Piecemealing and Capacity Above SPPE Threshold
The applicant appears to have artificially divided a planned 198 MW facility into a 99 MW initial phase in order to avoid the 100 MW threshold for full CEC certification review, in direct violation of CEQA's prohibition on piecemealing, and the installed generator capacity of 120MW appears inconsistent with the project's claimed SPPE eligibility.

The project raises serious and well-founded concerns regarding unlawful piecemealing and segmentation under CEQA, a body of law that the CEC, as lead agency, is obligated to mirror in its review. CEQA defines a 'project' as 'the whole of an action' having potential for direct or reasonably foreseeable indirect physical change in the environment (14 CCR § 15378).

California courts have consistently held that impermissible piecemeal review occurs when a large project is divided into smaller pieces to minimize the apparent environmental impact of each piece, thereby evading broader review. As the court stated in Planning & Conservation League v. Castaic Lake Water Agency (2009) 180 Cal.App.4th 210, 235, segmentation to avoid EIR review is precisely the kind of 'gaming the system' that CEQA prohibits. The California Supreme Court has further held that an EIR must analyze the environmental effects of future expansion if (1) it is a reasonably foreseeable consequence of the initial project, and (2) the future expansion will likely change the scope or nature of the project or its environmental effects (Laurel Heights Improvement Assn. v. Regents of University of California (1988) 47 Cal.3d 376).

Public-facing investor materials for the RB Inyokern Data Center have described the project as a multi-phase, AI-ready campus with an anticipated buildout of approximately 198 MW, double the 99 MW presented to the CEC. Those materials have included a site map identifying specific parcel numbers (352-201-49 through -52) for the Phase 2 expansion and note that a Method of Service (MOS) determination from Southern California Edison for Phase 2 service by 2031 has been requested and is expected "within four months." The 99 MW figure in the SPPE application falls just below the 100 MW threshold for mandatory AFC review, creating a strong inference of deliberate manipulation of the threshold. (These public, investor-facing materials use the term "Phase 2" to describe a separate future expansion onto additional parcels; this is distinct from the internal construction sequencing within the application itself, which uses "Phase 1," "Phase 2," and "Phase 3" to describe the staged build-out of the single campus presented to the CEC.) Notably, the application's own Conceptual Basis of Design phases that single campus to a full build-out of exactly 99 MW - Phase 1 at 49 MW, Phase 2 at 94 MW, and Phase 3 (Full Buildout) at 99 MW - stopping precisely one megawatt short of the 100 MW threshold, which further reinforces the inference that the project has been engineered to the very edge of the exemption.

These facts satisfy both prongs of the Laurel Heights test. Future expansion to 198 MW is a reasonably foreseeable consequence of the initial phase, and the combined buildout would substantially alter the project's scope and environmental effects. While the developer is now claiming that those materials were in error and he is only intending a 99MW project, the already-identified elements having been planned and created and an MOS having been requested from SCE still demonstrate that this does remain a reasonably foreseeable consequence and so should be considered. The Commission should therefore treat the full 198 MW buildout as the project for purposes of CEQA review and require evaluation of cumulative water demand, electrical infrastructure, generator impacts, and all other long-term environmental consequences associated with the likely future expansion.

The proposed project also raises substantial concerns regarding compliance with the intent and applicability of the Small Power Plant Exemption process itself. The application does not merely imply, but expressly states, that the installed generating capacity exceeds the 100 MW threshold. The applicant's own filing confirms that "[t]he Project will include forty (40) 3 MW Caterpillar 3516E diesel gensets with 120 MW gross nameplate (N+2)," and elsewhere describes the facility as "providing 120 MW of total installed backup generation capacity." The application concedes that this installed capacity is held below 100 MW only by a contractual and

operational limitation – stating that the facility's "continuous electrical demand is contractually and operationally limited to 99 MW per the SCE interconnection." In other words, the 99 MW figure reflects a contractual interconnection cap, not a physical limit on the installed generation, which totals 120 MW of nameplate capacity. The substantial discrepancy between installed backup generation capacity and the claimed project output threshold raises important concerns regarding enforceability, operational transparency, future expansion potential, and the adequacy of the proposed environmental review. Previous California SPPE proceedings for data center facilities have involved similar configurations in which installed generator capacity exceeded the stated operational cap through redundancy assumptions or operational limitations. However, in this case, the combination of phased project expansion, significant installed generation infrastructure, and the lack of publicly reviewable electrical service documentation raises substantial concerns regarding whether the project is being artificially constrained or characterized in a manner intended to fit within the SPPE framework despite infrastructure more consistent with a significantly larger industrial power facility.

The discrepancy also presents a threshold jurisdictional question for the Commission, not merely an environmental one. The SPPE exemption is available only for facilities at or below 100 MW, and the project's 120 MW of installed nameplate generation is held below that line solely by a private contractual interconnection cap that the Commission cannot itself police on a day-to-day basis. The applicant may respond that the additional units are redundant (N+2) backup capacity that should not count toward the threshold. But the physical environmental footprint of the facility – its diesel fuel storage, criteria-pollutant and greenhouse-gas emissions, noise, and fire risk – is driven by the installed equipment that is actually built and fueled on site, not by the contractual cap. The applicant's own Noise Analysis confirms as much by modeling all forty generators operating simultaneously and continuously (see Section IX below). Environmental impacts therefore exist regardless of whether all units are permitted to operate simultaneously, and the confluence of phased expansion, 120 MW of installed generation, and a privately enforced output cap should warrant full AFC review rather than exemption treatment under the SPPE process.

II. Failure to Demonstrate a Reliable 20-Year Water Supply (SB 610)

The applicant's Water Supply Assessment is fatally deficient: it measures the project's demand against an unsustainable, overdraft-level pumping baseline rather than the basin's sustainable yield, attaches the wrong basin's Groundwater Sustainability Plan as its supporting exhibit, relies on legally unresolved water allocations, and ignores the imminent June 2026 trial that will establish the basin's legally binding safe yield, or the following third phase of the adjudication which will determine water rights and availability.

Senate Bill 610 (Water Code §§ 10910–10915) requires that large developments demonstrate a reliable water supply for a 20-year horizon before discretionary approval. That demonstration must be grounded in the actual, legally determined water entitlements available from the relevant basin. For the Indian Wells Valley Groundwater Basin, those entitlements are currently the subject of active judicial proceedings and will not be definitively established until the comprehensive adjudication is complete.

The Water Supply Assessment submitted by the applicant suffers from two fundamental deficiencies. First, while the body of the Assessment identifies the Indian Wells Valley Groundwater Basin (Basin No. 6-054) as the basin in which the project is located, the applicant attached as its supporting Groundwater Sustainability Plan exhibit the plan for the Kern County Subbasin (Basin 5-022.14) – an entirely separate aquifer located on the other side of the Sierra Nevada in the Central Valley – and the Assessment is captioned “Kern County” throughout. Reliance on the wrong basin’s sustainability plan, which is governed by a different Groundwater Sustainability Agency and an entirely different sustainability framework, reflects a lack of care inconsistent with the rigorous, basin-specific analysis that SB 610 requires. Second, and more substantively, the Assessment understates the project’s significance by measuring its demand against the wrong benchmark. The Assessment characterizes the project’s maximum demand of 49.10 acre-feet per year (AFY) as merely “0.185% of the projected available yearly supply of 26,511 acre-feet.” But 26,511 AFY is not a sustainable supply; it reflects projected basin extractions that are themselves a principal driver of the basin’s critical overdraft. Measured against the basin’s actual sustainable yield of 7,650 AFY, as reported by the SGMA-designated Groundwater Sustainability Agency, the proper denominator is roughly one-third as large, and the addition of any new industrial demand to a basin already pumping at nearly three times its sustainable yield is precisely the kind of impact the Assessment was required to confront and did not. And while some local groups dispute this number and pose a higher number of ~14,300 AFY, any adjustment to this denominator would be speculative pending the outcome of adjudication.The Assessment compounds these problems by relying on a further speculative assumption that imported water will begin arriving around 2030 to bring basin pumping down to the sustainable yield – an unfunded, unbuilt, and legally uncommitted project that cannot support a reliable 20-year supply finding under SB 610.

The underlying water supply situation is profoundly uncertain. Current estimates place basin-wide pumping at roughly 20,840 acre-feet per year (AFY) against a natural sustainable yield of only 7,650 AFY as reported by the SGMA-designated Groundwater Sustainability Agency - a nearly three-to-one overdraft ratio. The basin has no natural runoff for replenishment. Separately, the Indian Wells Valley Technical Working Group - a coalition of local groundwater stakeholders, whose analysis is available through the Indian Wells Valley Water District and who contend that the basin’s natural recharge has been understated - estimates a substantially higher sustainable yield of approximately 14,300 AFY. While the Groundwater Sustainability Agency’s 7,650 AFY figure is the official, state-recognized determination, the existence of a credible and locally respected technical estimate nearly double that figure, a gap of more than 6,600 AFY, underscores that the basin’s true safe yield remains genuinely contested and unresolved. The Phase 2 Trial, which will establish the court’s legally binding safe yield determination, is scheduled to begin June 8, 2026, in the Orange County Superior Court (Case No. 30-2021-01187275-CU-OR-CJC). Approving a major water-dependent industrial project at the very moment a court is deciding how much water can legally be extracted from the entire aquifer is both logically and legally premature.

Furthermore, the Indian Wells Valley Water District has filed a Reverse Validation Action challenging the Groundwater Sustainability Plan itself, placing the entire existing water management framework in further legal uncertainty. Any water supply conclusion reached prior to the resolution of these proceedings would be speculative, unsupported by reliable long-term evidence, and legally insufficient under SB 610.

These deficiencies are independently significant under CEQA, separate and apart from any question of SB 610's technical applicability. While the applicant voluntarily submitted a Water Supply Assessment, the more durable governing principle is the controlling CEQA rule of Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, which holds that an agency may not rely on "paper water" or on the mere assumption that adequate supplies will materialize, but must demonstrate that water is actually available to serve the project over its full operational life – and, where future supplies are uncertain, must analyze the environmental consequences of either supplying the project from alternative sources or curtailing it. Measuring demand against overdraft-level pumping, relying on an unfunded and unbuilt future import project, and proceeding before the adjudication fixes the basin's legal safe yield each run directly contrary to Vineyard. Having placed a Water Supply Assessment before the Commission, the applicant cannot now disclaim its deficiencies, and those deficiencies alone are substantial evidence supporting a fair argument of significant water-supply impact.

Therefore, the Commission should require a comprehensive, independently verified, basin-specific Water Supply Assessment that: (a) relies on the correct, controlling Indian Wells Valley Groundwater Basin sustainability plan and measures the project's demand against the basin's sustainable yield rather than overdraft-level pumping; (b) is completed after the adjudication establishes final water allocations; (c) accounts for climate-adjusted, worst-case water consumption under desert operating conditions (discussed in Section IV below); and (d) is verified by an independent third party with demonstrated expertise in the basin.

III. Unreliability of the Will-Serve Letter from Inyokern Community Services District
The Inyokern Community Services District has been found financially insolvent and operationally deficient by the Kern County Grand Jury, is under active state oversight and consolidation proceedings, and cannot credibly serve as a reliable long-term water provider for a major industrial facility.

The reliability of the project's water supply assumptions is further undermined by its reliance on a will-serve letter from the Inyokern Community Services District (ICSD). ICSD is a small district that has faced documented operational, administrative, and compliance challenges of the most serious kind. The 2023–2024 Kern County Grand Jury found ICSD to be financially insolvent, facing multiple critical operational issues, and unwilling or unable to remedy those issues despite substantial outside assistance. Among other findings, the Grand Jury noted that ICSD had failed to provide the Indian Wells Valley Groundwater Authority with water production figures since 2018. The Kern County Board of Supervisors was formally recommended to initiate the district's reorganization by October 1, 2024.

As of a June 2025 letter from the California State Water Resources Control Board's Division of Drinking Water, the State Water Board had formally requested that ICSD and the Indian Wells Valley Water District enter into voluntary consolidation negotiations, and the district remains under active state oversight. Given ICSD's documented financial insolvency, operational deficiencies, ongoing state oversight, and active consolidation proceedings, there is substantial evidence that it lacks the long-term infrastructure, administrative capacity, or sustainable water allocation necessary to reliably serve a project of this scale over the 20-year period required by SB 610. The Commission should require a full independent assessment of ICSD's long-term capacity, financial stability, and water allocation reliability before any will-serve determination is accepted as any basis for project approval.

IV. Underestimated Water Demand and Need for Independent Climate-Adjusted Analysis
The project's water demand projections appear to materially understate actual consumption because they do not account for the Indian Wells Valley's extreme desert climate, where industry data show that comparable facilities operate among the highest Water Usage Effectiveness rates globally.

The project's Water Supply Assessment also appears to substantially underestimate likely water demand because it does not adequately account for the Indian Wells Valley's extreme climate conditions. Publicly available climate data show that the region experiences prolonged periods of extreme heat, very low humidity, and high evaporative demand, all of which significantly increase water consumption for the evaporative and hybrid cooling systems referenced in the application. As a threshold matter, the application does not provide complete, independently verifiable specifications for the cooling system the project intends to deploy – including the specific cooling technology, equipment make and model, the design Water Usage Effectiveness, and a full annual and peak-day water balance under local climate conditions. This omission is itself a significant deficiency. The applicant bears the burden of demonstrating no substantial adverse impact, and the absence of verifiable design information makes it impossible for the Commission, the public, or any independent reviewer to confirm the projected 49.10 AFY demand figure. Under the fair-argument standard, that gap must be resolved against the applicant: the Commission should evaluate the project against reasonable worst-case cooling and consumption assumptions rather than crediting unverified projections. The comparators below illustrate why the choice of cooling technology is decisive, and why an incomplete record on this point cannot support an exemption.

Industry data illustrates the problem clearly. Microsoft's Arizona data centers, a comparable desert-climate peer, operate at a Water Usage Effectiveness (WUE) rate of 1.52 liters per kilowatt-hour, among the highest of Microsoft's global fleet, compared to just 0.02 L/kWh at its Singapore facilities. Independent estimates for large data centers generally range from 50,000 to as many as 5 million gallons of water per day, equivalent to the daily water use of a community of 10,000 to 50,000 people. A Ceres analysis of Phoenix-area data centers found annual consumption of approximately 385 million gallons per year, with potential tenfold growth projected. Industry averages for evaporative cooling systems fall between 1.8 and 1.9 L/kWh.

Projections based on generalized or non-local assumptions will materially understate actual operational water use under real-world desert conditions at this location.

This concern is compounded by the fact that peak data center cooling demand coincides precisely with peak residential evaporative cooling demand during summer months. The cumulative drawdown of the basin during these periods could threaten the water system's capacity for existing residential and agricultural users – a potential public health and safety concern, not merely an infrastructure inconvenience.

The Commission should require an independent third-party assessment using the applicant's complete and disclosed cooling-system specifications (which the Commission should compel the applicant to provide), publicly available local climate data, and worst-case summer operating scenarios to determine realistic annual and peak water demand for the proposed facility and any reasonably foreseeable expansion phases. If the project proceeds, the Commission should require enforceable operational safeguards, including binding annual and daily water-use caps, real-time metering, independent annual third-party water audits, and publicly accessible monthly and annual water consumption reporting.

V. Groundwater Depletion and SGMA Compliance

Adding a major new industrial water user to an already critically overdrafted basin threatens to worsen chronic overdraft, undermine SGMA's sustainability mandates, and accelerate pressure for expensive imported water infrastructure that would burden local ratepayers.

The Indian Wells Valley Groundwater Basin is formally designated as being in "critical overdraft" under SGMA. SGMA requires groundwater basins to achieve sustainable water use and avoid undesirable outcomes, including chronic lowering of groundwater levels. Local residents have already made difficult decisions to achieve sustainability goals without having to resort to unaffordable solutions, including residential and commercial water use restrictions, and the planned phasing out of local agricultural operations. Approval of a new, large industrial water user in an already-overdrafted basin risks increasing pressure on local residents, agricultural users, and existing businesses that have been steadily reducing water use to comply with SGMA.

The likely consequence of approving additional major groundwater demand would be increased pressure for regional water importation projects that could impose substantial, long-term financial burdens on local ratepayers. Because groundwater within the basin is already over-allocated, the Commission should require the project to demonstrate true water neutrality and prohibit reliance on additional local groundwater extraction beyond any final adjudicated allocation. Proceeding with approval before adjudication to determine final water allocations would be premature and risk prejudicing the rights of existing users and the basin's long-term sustainability.

VI. Localized Groundwater Impacts in the Inyokern Well Area

The Inyokern area, where this project would draw water, is already among the most severely

impacted areas of the overdrafted basin; concentrated industrial pumping at this scale could cause a localized cone of depression, cause nearby wells to fail, and worsen water quality for existing users, regardless of broader basin groundwater issues.

Beyond basin-wide sustainability concerns, the project raises serious concerns regarding localized groundwater impacts in the Inyokern area specifically. This portion of the basin is already experiencing some of the most severe impacts of overdraft, including declining groundwater elevations, deteriorating water quality, increased sediment and dissolved solids, and reduced reliability of existing wells serving agricultural, residential, and de minimis users. These are impacts that publicly proposed water importation projects would not ameliorate or address. Publicly available documents from the Indian Wells Valley Groundwater Authority and Indian Wells Valley Water District document these ongoing declines within this specific area of the basin.

The project would concentrate its entire groundwater demand at just a few localized extraction points in this same area of the basin already in severe decline, and that extraction may be considerably greater than the applicant's current estimates given the climate-related underestimation concerns detailed above. Concentrated pumping of this magnitude, focused in one already impacted location rather than dispersed across the basin, would likely create a localized cone of depression, especially during peak summer demand. This could significantly worsen existing overdraft impacts, causing nearby wells to fail, increasing pumping costs for existing users, and accelerating water quality degradation due to sediment mobilization and rising concentrations of dissolved solids.

Because these impacts would disproportionately affect nearby residents, agricultural users, and small water systems already under stress, the Commission should require detailed hydrogeologic modeling and independent analysis of localized drawdown and water-quality impacts, including worst-case summer peak-demand scenarios before further consideration.

VII. Water Quality and Wastewater Treatment Concerns

Evaporative and hybrid cooling systems generate concentrated blowdown wastewater containing arsenic, TDS, heavy metals, biocides, and potentially PFAS compounds; it is unclear whether ICSD has the capacity to safely treat this waste stream, and no adequate analysis has been provided.

The project raises substantial concerns regarding water quality and wastewater treatment capacity associated with the proposed hybrid cooling system. Evaporative and hybrid cooling systems generate concentrated blowdown wastewater containing elevated levels of dissolved solids and naturally occurring contaminants present in local groundwater, including arsenic that occurs naturally in local water sources, as well as total dissolved solids (TDS), localized sediment mobilization, heavy metals such as zinc, copper, and chromium, phosphates, and organic biocides. Research on data center cooling wastewater has identified this range of contaminants in blowdown streams, many of which can harm local biological life and human health.

There is also growing regulatory concern regarding per- and polyfluoroalkyl substances (PFAS) associated with data center cooling infrastructure. The EPA has concluded there is no safe level of exposure to certain PFAS compounds. The Sierra Club and the Environmental and Energy Study Institute (EESI) have documented PFAS contamination risks associated with data center operations, with some facilities producing wastewater containing PFAS levels that far exceed EPA legal limits.

ICSD is a small rural district already facing significant infrastructure and compliance challenges, as documented in detail in Section VI above. It is unclear whether ICSD currently possesses sufficient treatment infrastructure, operational capacity, or regulatory compliance capabilities to safely process the concentrated blowdown waste stream resulting from large-scale industrial data center operations. In particular, questions remain about whether ICSD's existing systems can adequately treat elevated arsenic concentrations and other concentrated contaminants that may result from ongoing cooling operations in a high-evaporation desert environment. The Commission should require a detailed, independent analysis of water quality and wastewater treatment capacity that evaluates the chemical composition, volume, disposal method, treatment feasibility, regulatory compliance implications, and long-term environmental impacts associated with the project's cooling system blowdown.

VIII. Land Use and Zoning Incompatibility

The project appears incompatible with the surrounding M-2 Medium Industrial zoning requirements, which prohibit impacts extending beyond zoning district boundaries. The Phase 2 expansion site is zoned Estate and surrounded entirely by residential parcels, making it inherently incompatible.

The proposed project appears incompatible with surrounding land uses and applicable zoning requirements. While portions of the project site are zoned M-2 (Medium Industrial), the site is immediately adjacent to Neighborhood Commercial zoning and located approximately 370 feet from residential properties – as measured on site by community members, and even closer than the approximately 500 feet acknowledged in the applicant's own materials – with Inyokern School less than 1,400 feet from the main project elements. Kern County zoning standards for M-2 Medium Industrial uses require that operations not produce "fumes, odors, dust, smoke, gas, or vibrations that extend beyond zoning district boundaries," in this case, the project parcel boundaries. Given the scale of the proposed backup generation systems, cooling equipment, construction activity, lighting, and ongoing industrial operations, it appears practically impossible that impacts could be fully contained within the project parcel boundaries as required, even with extensive mitigation measures. Notably, the applicant itself concedes that the data center use is not permitted by right in the M-2 zone: its application confirms that a discretionary Conditional Use Permit (CUP) is required for the data center use under Kern County Zoning Ordinance Chapter 19.104 and remains pending – confirming that the County must independently evaluate the project's compatibility with surrounding uses rather than approving it as a matter of right.

Additionally, the Phase 2 expansion of this project, which, as detailed in Section I above, must be evaluated as part of the whole project under CEQA, is proposed on land zoned as Estate and is entirely surrounded by residentially zoned parcels. This Phase 2 expansion should be found inherently incompatible with surrounding land uses and denied on that basis.

The Commission should require a detailed, comprehensive independent analysis demonstrating how the full project, including both phases, could comply with these strict zoning standards under both routine and emergency operating conditions.

IX. Noise and Vibration Impacts

Forty 3-MW diesel generators plus extensive cooling infrastructure in close proximity to homes and a school will generate substantial, potentially chronic noise impacts that the application fails to adequately analyze, particularly given the unique desert acoustic conditions.

The project's proposed cooling systems and large diesel backup generators raise substantial concerns regarding significant noise impacts. Public project descriptions indicate that the facility would utilize approximately 40 diesel-fired generators, each rated at 3 MW, along with extensive cooling infrastructure. Even if generators are intended primarily for backup use, combined operational noise from testing, maintenance, emergency events, and simultaneous equipment operation could create substantial impacts for nearby residential neighborhoods, commercial properties, and sensitive receptors – including Inyokern School, located fewer than 1,400 feet from the facility. The risk of simultaneous operation is not hypothetical: the applicant's own Noise Analysis expressly modeled a worst-case scenario assuming all forty emergency generators operate simultaneously and continuously over a 24-hour period, confirming that the facility is physically capable of running its entire installed generation fleet at once – a configuration fundamentally at odds with the applicant's characterization of the facility as operationally limited.

The applicable zoning regulations require that these impacts not extend beyond the boundaries of the project's industrial zoning district, a standard that appears practically unachievable at this scale and proximity to sensitive receptors. This concern is further exacerbated by the absence of any cumulative noise assessment in the application, and by the fact that the application does not account for the unique acoustic transmission characteristics of the desert environment, including temperature inversion layers and the lack of natural sound absorption, which can dramatically increase the transmissibility and range of low-frequency industrial noise. The Commission should require comprehensive, independent acoustic modeling that evaluates cumulative worst-case operating scenarios, nighttime conditions, low-frequency noise propagation, and long-duration emergency operation events under local environmental conditions.

X. Air Quality Impacts

Forty diesel generators, construction dust in a high-wind desert environment, and ongoing operational emissions would add criteria pollutants to an airshed that the applicant's own air quality analysis admits already exceeds state and federal standards for particulate matter, may

violate zoning boundary standards, and has not been subjected to any adequate cumulative analysis.

The project may cause significant adverse air quality impacts from diesel generator emissions, construction dust, fugitive particulate matter, and operational emissions. The proposed use of approximately forty diesel-fired generators raises concerns about nitrogen oxides, particulate matter (PM2.5 and PM10), diesel exhaust, and other criteria pollutants that could affect nearby residents, schools, and businesses. As with noise, the applicable zoning standards for the M-2 zone require that "fumes, dust, smoke, gas, and related impacts not extend beyond zoning district boundaries." It is physically impossible to confine diesel exhaust and fugitive dust within parcel boundaries.

Construction-related dust and emissions may be especially difficult to contain given the desert conditions and frequent, high-velocity wind events common in the Indian Wells Valley. Of particular regulatory significance is the fact that the project would add pollution to an airshed that already violates particulate standards. While the Indian Wells Valley holds a federal PM10 maintenance designation, it is classified as nonattainment for PM10 under state (CAAQS) standards and as nonattainment for PM2.5 under federal (NAAQS) standards. Critically, the applicant's own Air Quality Impact Analysis concedes that pre-project ambient concentrations of 24-hour PM10, 24-hour PM2.5, and annual PM10 already exceed their respective ambient air quality standards. Concentrated diesel emissions and fugitive dust from a project of this scale would therefore contribute to an existing, admitted violation and could jeopardize the region's federal maintenance status, triggering additional regulatory consequences for the region as a whole. The Commission should require independent review and a comprehensive cumulative air quality analysis of the project's impacts on the valley-wide air basin, and if the project were to be approved, strict monitoring and regular public reporting of compliance with all applicable air quality standards.

XI. Greenhouse Gas Emissions and Long-Term Climate Resilience

The project's lifecycle greenhouse gas emissions, including those from 40 backup diesel generators and AI-scale electrical demand, have not been adequately analyzed, and the application fails to account for how a warming climate will intensify the project's environmental impacts over time.

The project raises substantial concerns regarding greenhouse gas emissions and long-term climate impacts. Large AI-oriented data centers are among the most energy-intensive industrial facilities currently being developed and may result in significant direct and indirect greenhouse gas emissions associated with electrical demand, backup diesel generation, construction activity, embodied carbon in building materials, infrastructure expansion, and ongoing operational requirements. The proposed use of approximately forty diesel-fired backup generators further raises concerns regarding emissions during testing, maintenance, emergency operation, and peak grid demand events.

California law and CEQA require analysis of a project's contributions to climate change and consistency with statewide greenhouse gas reduction goals. The current project materials do not appear to provide a sufficiently detailed analysis of lifecycle greenhouse gas emissions, cumulative climate impacts, or the ways in which rising regional temperatures and drought conditions may interact with and intensify the project's environmental impacts over time. Because climate change is expected to increase extreme heat, water scarcity, and electrical reliability challenges within the Indian Wells Valley, the project's long-term operational demands may become substantially more environmentally significant over its operational lifespan. The Commission should require a comprehensive greenhouse gas and climate resilience analysis as part of a full AFC review.

XII. Waste Heat, Thermal Plume, and Heat Island Effects

Large data centers can create measurable localized temperature increases and microclimate effects; in an Indian Wells Valley community already experiencing dangerous summer temperatures, additional localized warming from this facility would pose public health risks and increase cooling demand for surrounding properties.

The proposed project raises significant concerns about waste-heat emissions, localized thermal plume effects, and potential heat island impacts associated with operating a large-scale data center in an already extremely hot desert environment. Data centers generate substantial amounts of waste heat from servers, power systems, cooling infrastructure, and backup generation equipment, much of which is ultimately discharged into the surrounding environment via cooling towers and ventilation systems.

Emerging research and documented operational experience from large data centers have demonstrated that these facilities can create measurable localized temperature increases, nighttime heat retention, and microclimate impacts in surrounding areas, particularly during peak operational periods and extreme summer conditions. These impacts are especially concerning in the Indian Wells Valley, where the community already experiences dangerous summer temperatures, extreme evaporative conditions, and increasing heat-related public health risks. Additional localized warming could adversely affect nearby residents, schools, and businesses; increase cooling demand and electrical consumption in surrounding properties; and worsen groundwater evaporation rates and community health outcomes. While the application includes a Thermal Plume Analysis (Appendix E.4) that calculates a maximum generator-exhaust plume height of approximately 119.7 feet above ground level, the project materials do not appear to include any analysis of broader thermal emissions, cumulative waste-heat generation, or microclimate effects on the surrounding community. The Commission should require independent thermal modeling and environmental analysis to evaluate operational heat discharge, nighttime heat retention, and cumulative thermal impacts on nearby sensitive receptors.

XIII. Light Pollution and Visual Impacts

The Indian Wells Valley's dark skies are a valued community resource and an economic asset;

continuous industrial lighting from a large data center campus would materially degrade those conditions and should be rigorously evaluated rather than dismissed as insignificant.

The project raises significant concerns regarding visual impacts and light pollution. The Indian Wells Valley and Eastern Sierra region are widely valued for their exceptionally dark skies, which contribute to local quality of life, tourism, recreation, scientific astronomy, and the area's rural character. A large-scale industrial data center operating continuously, with extensive security lighting, facility lighting, and associated infrastructure lighting operating 24 hours a day, 365 days a year, could substantially and permanently degrade dark sky conditions visible throughout the surrounding valley. These impacts should be fully evaluated through detailed visual simulations and nighttime lighting analysis, including a photometric study of spill light and sky glow, rather than being dismissed as insignificant without analysis.

XIV. Electrical Grid Reliability and Ratepayer Cost Impacts

The project's electrical service requirements have been designated confidential and cannot be publicly reviewed; national data shows that data center-driven grid upgrades are increasingly being socialized onto residential ratepayers, and the Indian Wells Valley is already vulnerable to grid failures during extreme heat events.

The project may create substantial impacts on local electrical infrastructure reliability and utility costs for local residents and ratepayers. Large AI-oriented data centers are among the most energy-intensive industrial facilities currently being developed in the United States. Utilities, regulators, and independent researchers across the country have raised concerns about the strain these facilities place on regional transmission systems, substations, local distribution infrastructure, and long-term grid reliability. Publicly available national data shows that utilities across the country requested over $29 billion in rate increases in the first half of 2025 alone, more than double 2024's pace, driven in significant part by infrastructure upgrades needed to serve new large loads, including data centers. The U.S. Energy Information Administration has reported that residential electricity prices rose 11.5% in 2025, outpacing inflation, and prices are projected to increase by up to 40% by 2030.

California's Public Utilities Commission's Public Advocates Office has separately noted that the CAISO (California Independent System Operator) has identified billions of dollars in transmission upgrades needed over the next decade to serve anticipated data center load growth, and that cost allocation between data centers and other ratepayers remains an unresolved and actively contested policy question. These concerns are especially acute in this case because the Method of Service (MOS) information provided by Southern California Edison regarding the project's electrical service requirements has been designated confidential and cannot be independently reviewed by the public or affected community members. This lack of transparency makes meaningful public comment on grid capacity, infrastructure upgrade requirements, transmission impacts, and long-term reliability implications impossible.

Furthermore, the Indian Wells Valley already experiences significant grid reliability challenges during extreme heat events. The added electrical demand from a large data center,

compounded by simultaneous residential cooling loads during summer peak periods, could risk catastrophic localized grid failure or forced load shedding, with severe consequences for public health and safety in a rural desert community. Particularly in light of the unavailability of documents for public comment, the Commission should require a full independent electrical infrastructure and ratepayer impact analysis evaluating grid capacity, required upgrades, cumulative impacts of future expansion phases, long-term reliability risks, and the potential for infrastructure costs to be shifted to local residents or utility customers – and should ensure that this analysis is available for full public review in lieu of the MOS.

XV. Traffic and Road Safety Impacts

Construction and operational traffic for a facility of this scale would impose significant burdens on Inyokern's limited rural road network and raise pedestrian and multimodal safety concerns, particularly near the community's school.

Construction and operational traffic associated with the project may create significant impacts for the surrounding rural community. Construction of a project of this scale would require heavy truck traffic, oversized equipment transport, substantial road wear, increased congestion, and ongoing maintenance traffic on infrastructure that is already constrained and difficult to maintain in an unincorporated rural community. Local government capacity to manage mitigation responses is limited, and the distance from county administrative centers makes oversight more difficult.

The project's main access routes are the two primary streets of Inyokern, both of which have already raised community concerns about pedestrian and multimodal transportation safety. These concerns are especially acute given the proximity of Inyokern School and the regular movement of children, cyclists, and persons with disabilities accessing local businesses and services along these corridors. The Commission should require a full traffic and roadway impact study encompassing both construction and operational phases, assessing traffic safety impacts for pedestrians, bicyclists, wheelchair users, and general traffic connectivity, including impacts on the nearby transit hub.

XVI. Seismic Risk and Infrastructure Resilience

The Indian Wells Valley experienced a major M7.1 earthquake and extensive aftershock sequence in 2019; industrial infrastructure of this scale and complexity – with diesel fuel systems, cooling infrastructure, and hazardous materials – requires a comprehensive seismic hazard analysis.

The proposed project raises significant concerns about seismic risk and the resilience of the associated infrastructure. The Indian Wells Valley region experienced a major M7.1 earthquake in 2019, followed by extensive and prolonged seismic activity, which residents vividly remember. Seismic events of this magnitude are fully capable of damaging industrial infrastructure, utilities, fuel systems, pipelines, wastewater systems, and electrical equipment. A large industrial data center utilizing diesel fuel systems, cooling infrastructure, electrical substations, hazardous materials, and substantial backup generation equipment may pose secondary environmental

and public safety risks during seismic events, including spills, fires, utility failures, and groundwater contamination.

The Commission should require comprehensive seismic hazard and infrastructure resilience analyses that evaluate the project's ability to operate safely during and after significant seismic activity – including fault proximity, ground acceleration projections, soil stability, and secondary hazard containment – without creating additional environmental or public safety risks for nearby residents and sensitive receptors.

XVII. Hazardous Materials, Fire Safety, and Emergency Response Capacity
Large data centers involve substantial quantities of diesel fuel, battery systems, cooling chemicals, and other hazardous materials; local emergency response resources are limited, and a major industrial fire or hazardous materials incident near homes and a school would have severe consequences.

The proposed project raises significant concerns regarding hazardous materials management, fire safety, and emergency response capacity. Large-scale data centers commonly utilize substantial quantities of diesel fuel, battery energy storage systems, cooling chemicals, lubricants, refrigerants, transformer oil, and other potentially hazardous materials that present risks of spills, groundwater contamination, fire, explosion, and toxic emissions if not properly managed. Of particular concern are the proposed diesel backup generators and associated fuel storage tanks, which may create elevated risks of fire, thermal runaway events, hazardous smoke emissions, and long-duration industrial fire incidents. The scale of on-site fuel storage is substantial: the application proposes 600,000 gallons of diesel held in six 100,000-gallon aboveground storage tanks – an aggregate volume that exceeds Kern County Fire Marshal thresholds, requires special written approval, and triggers a federal Spill Prevention, Control, and Countermeasure (SPCC) plan.

These concerns are especially significant in the Indian Wells Valley due to the region's extreme heat conditions, limited local emergency response resources, rural infrastructure limitations, and constrained water availability for firefighting purposes. A major industrial fire or hazardous materials incident could place catastrophic strain on local emergency response agencies and mutual aid systems while potentially threatening nearby residential neighborhoods, Inyokern School, businesses, and critical infrastructure, all within a few hundred feet of the proposed facility. The project materials do not appear to adequately evaluate emergency response capacity, evacuation planning, hazardous materials containment, fire suppression water demand, or the cumulative risks associated with large-scale industrial operations in close proximity to sensitive receptors. The Commission should require a comprehensive, independent analysis of hazardous materials risks and emergency response adequacy, including the provision of items required by local and federal mandates before further review is completed.

XVIII. National Security and Supply Chain Vulnerability
The project's proximity to Naval Air Weapons Station China Lake, combined with the opacity of the applicant's ownership structure and supply chain, raises significant concerns about foreign

investment transparency, cyber vulnerabilities, and potential threats to defense-adjacent critical infrastructure of the highest national importance.

The proposed project raises significant national security and supply chain vulnerability concerns due to its proximity to Naval Air Weapons Station China Lake, one of the most critical U.S. military research, development, testing, and evaluation installations in the world. While data centers directly associated with military operations are subject to federal oversight and security controls, this proposed privately operated commercial facility raises unique concerns regarding foreign investment transparency, supply chain integrity, and cyber vulnerabilities in sensitive defense-adjacent infrastructure. These concerns are properly before the Commission because the SPPE standard requires a finding of no substantial adverse impact not only on the environment but also on energy resources; the security and reliability of energy and critical infrastructure serving the vicinity of a national-defense installation falls within that inquiry and is an additional reason the abbreviated SPPE process is inappropriate here.

Modern data centers rely heavily on globally sourced servers, networking equipment, power electronics, firmware, and operational control systems, many of which are manufactured or assembled through supply chains connected to the People's Republic of China. Additionally, as a niche commercial data center in proximity to China Lake, this facility could host tenants with specific access to systems or networks that could pose risks to mission-critical research conducted at the base.

Federal agencies, including CISA, the NSA, the FBI, and the Five Eyes intelligence alliance, have issued formal warnings regarding Volt Typhoon, a PRC state-sponsored advanced persistent threat actor that has achieved undetected pre-positioning access within U.S. critical infrastructure – including communications, energy, transportation, and water systems – for periods of five years or more. FBI Director Christopher Wray described Volt Typhoon as "the defining threat of our generation" in testimony before Congress in January 2024. U.S. Air Force leadership has specifically warned that Volt Typhoon's persistent access could enable China to wage "total war" against U.S. infrastructure during a future conflict. CISA Director Jen Easterly testified in 2024: "This threat is not theoretical…CISA teams have found and eradicated Chinese intrusions into critical infrastructure across multiple sectors… And what we've found to date is likely the tip of the iceberg." China Lake has previously been targeted in major cyber espionage incidents involving theft of sensitive military information.

Given the project's proximity to a strategic military installation, the Commission should require full disclosure of ownership structures, financing sources, major equipment suppliers, and supply chain origins; formally consult with the Department of Defense and relevant federal agencies, including CISA, the NSA, and the FBI; and require a comprehensive review of potential national security, infrastructure, and supply chain risks as part of the full AFC process. Proceeding through a limited exemption process that forecloses these inquiries could expose sensitive defense, and energy, infrastructure to vulnerabilities with direct national security implications.

XIX. Impacts on Nearby Homes, Schools, and Businesses
With residential properties located approximately 370 feet from the project, even nearer than the roughly 500 feet acknowledged in the applicant's own materials, and Inyokern School fewer than 1,400 feet away, the cumulative impacts of noise, emissions, lighting, traffic, and industrial activity in close proximity to these sensitive receptors independently justify denial of the exemption.

The project's proximity to nearby homes, schools, and businesses creates substantial concerns regarding cumulative impacts on community character, public health, and quality of life. Homes are located approximately 370 feet from portions of the project, as measured on site by community members, closer even than the approximately 500 feet the applicant's own materials acknowledge, and Inyokern School is located fewer than 1,400 feet away. Residents of Inyokern choose to live there because of the community's quiet, dark nights, freedom from heavy traffic and noise, and overall rural character.

Potential impacts – including industrial noise from generators and cooling systems, generator testing and maintenance activity, diesel and particulate air emissions, continuous security and facility lighting, construction activity extending over years, heavy truck traffic, vibration, and visual impacts – warrant heightened scrutiny due to the presence of these sensitive receptors, particularly in combination with the zoning incompatibility concerns already raised. We firmly believe that these proximity impacts alone, independent of the many other significant adverse environmental impacts identified in this letter, constitute significant adverse environmental impacts of sufficient magnitude to warrant denial of the requested exemption and require full AFC review. The Commission should require a full environmental review, carefully evaluating the cumulative and long-term impacts on nearby residents, children, local businesses, and community facilities.

XX. Environmental Justice and Disproportionate Community Impacts
More than 80% of local students are classified as socioeconomically disadvantaged; the surrounding community already bears disproportionate health burdens; and the cumulative impacts of this project could fall most heavily on those residents least able to absorb rising utility costs, deteriorating water quality, or worsening health outcomes.

The project raises significant environmental justice concerns regarding disproportionate impacts on vulnerable and sensitive populations within the surrounding community. Publicly available data from the California School Dashboard indicate that approximately 80.1% of local students are classified as socioeconomically disadvantaged. The district also serves vulnerable populations, including students with disabilities, English learners, homeless students, and families already experiencing economic hardship. Publicly available health data for the area show disproportionate levels of asthma, cardiovascular disease, diabetes, and low birth weights – conditions that could be exacerbated by the air quality, noise, and stress impacts associated with this project.

Under CEQA and California environmental justice policies, agencies are required to consider whether environmental burdens may fall disproportionately on disadvantaged communities that may have fewer resources to mitigate or avoid those impacts. Potential impacts associated with this project – including groundwater depletion, declining water quality, air pollution, diesel emissions, industrial noise, light pollution, traffic, and infrastructure cost burdens – could disproportionately affect lower-income residents and families who are less able to absorb rising utility costs, drill deeper wells, relocate, or otherwise respond to environmental harms. Reductions in groundwater reliability and rising infrastructure costs could further strain local households already facing economic challenges in a rural community with limited resources and services. The Commission should require a full environmental justice analysis evaluating cumulative and disproportionate impacts on disadvantaged and sensitive populations before considering any approval.

XXI. Cumulative Impacts, Growth-Inducing Effects, and Climate Interactions
The Indian Wells Valley already faces chronic environmental stressors that CEQA requires to be evaluated cumulatively; the applicant's own website claims the project will induce approximately 500 additional jobs, signaling growth-inducing effects that must be analyzed, and climate change projections for the region will magnify these cumulative impacts over the project's operational life.

The project raises substantial concerns regarding cumulative impacts and growth-inducing effects under CEQA. The developer's own website (rbinyokerndatacenter.com) claims the project will support approximately 500 jobs beyond those it would directly employ – a figure disputed by community members, but one that itself signals acknowledged growth-inducing potential. In a valley already experiencing significant environmental stressors – including chronic groundwater overdraft, declining groundwater quality, infrastructure limitations, extreme heat conditions, regional air quality concerns, and increasing financial burdens associated with water management – the incremental contribution of this project to cumulative environmental impacts requires comprehensive analysis under CEQA.

The project's required electrical infrastructure upgrades, transmission improvements, water system modifications, roadway impacts, and industrial development patterns could also induce additional future industrial growth that is incompatible with the rural character, infrastructure limitations, and groundwater sustainability goals of the Indian Wells Valley. The publicly promoted future expansion phases of the data center itself further intensify these concerns.

Climate change projections for the region indicate rising temperatures, prolonged drought, and increased stress on both water and electrical infrastructure over the project's operational life. These conditions magnify the significance of the project's cumulative impacts on groundwater sustainability, electrical reliability, heat-related public health risks, and infrastructure demand. CEQA requires agencies to evaluate the cumulative effects of connected actions and reasonably foreseeable future expansion. The Commission should require a comprehensive cumulative impacts analysis evaluating the combined and long-term environmental

consequences of the project together with foreseeable future expansion, regional infrastructure demands, climate change effects, and induced development patterns prior to any approval.

XXII. Absence of Required Alternatives Analysis
CEQA requires a meaningful alternatives analysis capable of substantially reducing significant environmental impacts; the applicant has provided none, leaving decision-makers and the public unable to evaluate whether less damaging options exist for this uniquely sensitive location.

The applicant materials do not appear to include a CEQA-compliant alternatives analysis, as required whenever a project may have significant environmental effects. Given the uniquely sensitive conditions of the Indian Wells Valley – including critical groundwater overdraft, unresolved adjudication proceedings, rural infrastructure limitations, extreme climate, and proximity to residential neighborhoods, a school, and a critical military installation – the Commission should require analysis of a full range of feasible alternatives capable of substantially reducing environmental impacts.

These alternatives should include, at a minimum:

- Reduced-size or phased alternatives that would remain below significant impact thresholds;
- Water-neutral operational alternatives that eliminate groundwater withdrawal;
- Alternative project sites outside critically overdrafted groundwater basins and outside the defense security perimeter of NAWS China Lake;
- Alternative power configurations that reduce diesel generator reliance and associated air quality, fire safety, and GHG impacts; and
- Distributed or less resource-intensive development models.

Without a meaningful alternatives analysis, neither the public nor the Commission can adequately evaluate whether less damaging and more sustainable options exist. This omission independently requires a full AFC process.

XXIII. Wildlife, Endangered Species, Domestic Animals, and Pollinators
The application's Biological Analysis Report identifies eleven special-status wildlife species and three special-status plant species as having potential to occur on site, yet concludes without adequate justification that all impacts can be reduced to less-than-significant levels, while failing to complete required protocol-level surveys, omitting all analysis of operational-phase impacts, and ignoring the project's effects on domestic animals and commercially kept pollinators in the surrounding rural community.

The applicant's Biological Analysis Report (BAR, Appendix D.1) contains deficiencies that independently preclude the no-significant-impact finding required for SPPE approval. The BAR's reconnaissance surveys were conducted in August and November 2025 – outside the optimal detection windows for several key species identified as having potential to occur on site – and protocol-level surveys were not completed for any of the eleven special-status wildlife species identified. The BAR also does not confirm that surveys referenced from a nearby solar project

were conducted on the current data center footprint under current protocols. Because the project is privately funded on private land, a Biological Opinion under FESA Section 7 may not be available absent a federal nexus (such as a federal permit, funding, or approval); in that circumstance, lawful take of a federally listed species would instead require an incidental take permit and a habitat conservation plan under FESA Section 10. The application documents neither a Section 7 consultation, a Section 10 permit pathway, nor formal CDFW coordination regarding listed or candidate species.

The desert tortoise (*Gopherus agassizii*) warrants particular emphasis. The project site lies within the western Mojave Desert recovery unit of the Mojave desert tortoise, and the BAR correctly identifies the species as having potential to occur on site. However, the BAR contains a critical legal error: it was dated December 2025 yet still treats the desert tortoise as a state-Threatened species, when in fact the California Fish and Game Commission voted unanimously on April 18, 2024, to uplist the Mojave desert tortoise to Endangered under CESA, with that uplisting taking legal effect on July 15, 2025, months before the BAR was finalized. The desert tortoise is therefore now both federally Threatened under FESA and state-Endangered under CESA. This uplisting imposes significantly stricter take-avoidance obligations and mitigation requirements than those applicable to a merely Threatened species, and the BAR's failure to reflect this current legal status renders its impact analysis and proposed mitigation measures legally insufficient on their face. The population-level picture is equally stark: desert tortoise density and abundance declined by 38% across the western Mojave over the last twenty years, only two of the ten designated tortoise conservation areas currently meet the minimum viable adult density of 3.9 per square kilometer, and published research on the nearby El Paso Mountains population, directly adjacent to the Indian Wells Valley, concluded that local populations are in a downward trend unlikely to persist without intervention. Against this backdrop, permanently destroying 50 to 95 acres of potentially occupied desert tortoise habitat without completing full USFWS-protocol presence/absence surveys on the current project footprint, obtaining the required federal take authorization (a Biological Opinion under FESA Section 7 where a federal nexus exists, or otherwise an incidental take permit and habitat conservation plan under FESA Section 10) together with a state Incidental Take Permit under Fish and Game Code § 2081, and demonstrating compliance with the heightened obligations applicable to a CESA-Endangered species is legally untenable.

The Mohave ground squirrel (Xerospermophilus mohavensis), also listed as Threatened under CESA and the subject of an active federal listing petition, is endemic to the western Mojave Desert and likewise identified as having potential to occur on site. On May 4, 2026, weeks before this letter was filed, CDFW formally initiated recovery planning for this species under California's SB 473 framework, the first time this process has been invoked for any California species. Permanently destroying occupied or potentially occupied habitat at the very moment the State has initiated formal recovery planning is directly contrary to CDFW's conservation mandate.

The BAR also entirely omits analysis of operational-phase wildlife impacts. Continuous 24/7 industrial lighting, generator and cooling system noise, waste heat from cooling towers, and

permanent fragmentation of 50–95 acres of intact desert scrub will affect wildlife throughout the project's multi-decade operational life, not only during construction. Peer-reviewed research has documented that artificial light at night disrupts nocturnal species' behavior, disorients migratory birds, and fragments movement corridors for desert-adapted species, including the desert kit fox and the American badger, both of which the BAR identifies as having the potential to occur on site. Yet we were unable to find any of these ongoing impacts addressed in the application materials.

Finally, the project materials contain no assessment of impacts on the domestic animals and commercially managed honeybee colonies maintained by residents on nearby rural parcels – impacts that could arise from construction disturbance, noise, lighting, air emissions, and habitat loss affecting forage. (We note that California has generally treated power-line electromagnetic-field effects as too scientifically uncertain to constitute a cognizable CEQA impact, and we therefore do not rest this concern on electromagnetic fields; the point is rather that the application omits any analysis of the project's conventional construction- and operation-phase effects on these nearby agricultural and domestic-animal uses.)

The Commission should require a full independent biological analysis that conducts protocol-level surveys for all special-status species at appropriate seasons; documents the appropriate federal take authorization (Section 7 consultation where a federal nexus exists, or otherwise a Section 10 incidental take permit and habitat conservation plan) and CESA compliance – under the species' current Endangered status – for all listed and candidate species; evaluates operational-phase lighting, noise, and waste heat impacts on wildlife; assesses cumulative impacts of the full 198 MW buildout; and demonstrates consistency with CDFW's newly initiated Mohave ground squirrel recovery planning process.

XXIV. Tribal Cultural Resources and Government-to-Government Consultation
The CEC, as lead agency, bears an independent and non-delegable duty under AB 52 to provide formal notice to, and on request consult with, California Native American tribes traditionally and culturally affiliated with the project area; an applicant-prepared, confidential cultural resources report cannot satisfy that duty..

The project area lies within a region of documented Native American cultural affiliation, including the Kawaiisu, Koso/Timbisha Shoshone, and other Numic-speaking peoples of the Indian Wells Valley and surrounding Mojave and Eastern Sierra landscape. Additionally, this project is immediately adjacent to land that has been taken into trust by the Bureau of Indian Affairs for the Timbisha Shoshone Tribe for future development that is already in the planning phases. Assembly Bill 52 (Pub. Resources Code §§ 21080.3.1, 21080.3.2, 21084.2, 21084.3) requires the lead agency, before adopting any negative declaration, mitigated negative declaration, or environmental impact report – and, by extension, before making the no-substantial-adverse-impact finding required for an SPPE – to provide formal written notice to, and upon request engage in government-to-government consultation with, any California Native American tribe that has requested notice of projects in the area and is traditionally and culturally affiliated with the project location. This duty runs to the Commission itself; it cannot be

discharged by an applicant-commissioned cultural survey, however thorough, and it requires consideration of tribal knowledge regarding tribal cultural resources that may not appear in the archaeological record. Because of the significance of the impacts on land held in trust for the Timbisha Shoshone tribe, as well as the nearby Kern Valley Indian Community, the Commission should, ensure that it has provided AB 52 notice to and offered consultation with these and any other affiliated tribes (and SB 18 consultation under Gov. Code § 65352.3 to the extent applicable) before taking any action on the application.

XXV. Archaeological, Historical, and Paleontological Resources; Public Review of the Confidential Cultural Report

The applicant's cultural resources analysis (Appendix M) has been designated confidential in its entirety, preventing the public and affected community from testing whether the survey was adequate, while the application appears to omit any analysis of paleontological and mineral resources in a region known to be archaeologically and paleontologically significant.

The applicant submitted a cultural resources report as Appendix M and obtained a confidential designation for it (Application for Confidential Designation, TN269642; CEC response, TN269992). We recognize the legitimate legal basis for protecting the specific locations of sensitive archaeological sites from public disclosure (Gov. Code § 6254(r); Pub. Resources Code § 21082.3(c)). That protection, however, extends only to site-specific location data; it does not justify withholding from public review the methodology and conclusions of the cultural analysis as a whole. As filed, the wholesale confidential treatment prevents the community from confirming basic adequacy questions – for example, whether a current records search was obtained from the appropriate California Historical Resources Information System (CHRIS) Information Center; whether an intensive pedestrian survey covered the entire current project footprint, including the Phase 2 expansion parcels that must be analyzed as part of the whole project under Section I above; whether Native American and tribal input was incorporated; and whether built-environment historical resources were evaluated. Separately, the application materials do not appear to address paleontological resources or mineral resources at all, despite the Indian Wells Valley region's documented paleontological sensitivity. The Commission should require (a) a publicly available, appropriately redacted summary of the cultural resources report's methods, survey coverage, and conclusions sufficient to permit meaningful public comment; (b) confirmation of an independent CHRIS records search and intensive survey of the full footprint; and (c) a paleontological resources assessment consistent with Society of Vertebrate Paleontology standards.

XXVI. Incomplete Environmental Checklist: Un-Analyzed CEQA Appendix G Categories and Mandatory Findings of Significance

The Commission's environmental review tracks the CEQA Appendix G checklist, yet the application omits or only confidentially addresses several mandatory categories and never confronts the Mandatory Findings of Significance, each of which the record here independently implicates – rendering the environmental document facially incomplete and incapable of supporting the no-substantial-adverse-impact finding the SPPE requires.

The CEC's environmental analysis for an SPPE is structured around the CEQA Environmental Checklist (CEQA Guidelines, Appendix G). Beyond the substantive deficiencies detailed throughout this letter, the application appears to omit or inadequately address several checklist categories: Tribal Cultural Resources (Section XXIV above); Cultural and Archaeological Resources (available only on a confidential basis, Section XXV above); and Paleontological and Mineral Resources. Most significantly, the application does not confront the Mandatory Findings of Significance under CEQA Guidelines § 15065, which compel a finding of significance, and therefore full environmental review, where a project has the potential to substantially degrade habitat or reduce a special-status species below self-sustaining levels, where the project's cumulative impacts are cumulatively considerable, or where the project may cause substantial adverse effects on human beings, directly or indirectly. The record before the Commission implicates all three: the destruction of 50-95 acres of occupied habitat for a now-CESA-Endangered species (Section XXIII); the cumulative groundwater, air-quality, grid, and growth-inducing impacts documented throughout (Sections V, X, XIV, and XXI); and the proximity-based noise, air, fire, and public-health effects on nearby residents, Inyokern School, and a disadvantaged community (Sections IX, X, XVII, XIX, and XX). An environmental checklist that is facially incomplete on mandatory categories, and that never addresses the § 15065 findings the record triggers, cannot lawfully support the issuance of an SPPE.

Requests for Relief

For all of the foregoing reasons, Taxpayers for Accountability for Our Groundwater respectfully requests that the California Energy Commission:

1. Deny the requested Small Power Plant Exemption and require the full Application for Certification (AFC) process, including a comprehensive environmental review equivalent to a full Environmental Impact Report, based on the multiple significant adverse environmental impacts identified in this letter and full generator capacity of 120MW;

2. Pause all approval proceedings for the RB Inyokern Data Center pending final resolution of the comprehensive adjudication of the Indian Wells Valley Groundwater Basin – including resolution of the pending Reverse Validation Action challenging the Groundwater Sustainability Plan – so that any water supply determination can be based on final, court-determined, legally-reliable, basin-specific water allocation data;

3. Require the project to be analyzed as a whole, including reasonably foreseeable future expansion to 198 MW and Phase 2 development, as required by CEQA's prohibition on piecemealing and segmentation;

4. Require a comprehensive, independent, and basin-specific Water Supply Assessment that: (a) correctly references the Indian Wells Valley Groundwater Basin (Basin No. 6-054) rather than the Kern Subbasin; (b) is prepared after the adjudication establishes final water allocations; (c) accounts for climate-adjusted, worst-case water consumption under desert operating conditions; and (d) is verified by an independent third party with demonstrated expertise in the basin;

5. Require a full independent assessment of ICSD's long-term infrastructure capacity, financial stability, and water allocation reliability before any will-serve determination is accepted;

6. Require comprehensive independent analyses of all areas of concern identified in this letter, including but not limited to: localized hydrogeologic and water quality impacts; wastewater treatment capacity; national security and supply chain risks; electrical grid and ratepayer impacts; air quality; noise and vibration; waste heat and thermal plume effects; fire safety and hazardous materials; seismic resilience; traffic safety; light pollution; cumulative and growth-inducing impacts; greenhouse gas emissions; environmental justice; tribal, cultural, archaeological, and paleontological resources; wildlife and biological species; and

7. Require a full CEQA-compliant analysis of feasible project alternatives before any approval is considered;

8. Provide formal notice and offer government-to-government consultation under AB 52 (Pub. Resources Code § 21080.3.1) to all traditionally and culturally affiliated California Native American tribes, including at a minimum the Timbisha-Shoshone and Kern Valley Indian Community, before taking any action on the application;

9. Make a formal data-adequacy and completeness determination under 20 CCR § 1934 et seq. and find the application incomplete pending, among other things, correction of the Water Supply Assessment, disclosure of complete and verifiable cooling-system specifications, a publicly reviewable record of the cultural resources and Method-of-Service analyses, and the missing Appendix G analyses identified in this letter; and

10. Hold at least one public hearing or workshop within the Indian Wells Valley community, extend the public comment period commensurate with the volume and complexity of the issues raised, and direct the Commission's Public Adviser's Office to assist affected residents in participating in this proceeding.

We appreciate the Commission's careful consideration of these concerns. The residents of the Indian Wells Valley have a fundamental and long-standing stake in the responsible stewardship of their groundwater basin and in protecting their community from significant, inadequately analyzed industrial impacts. The legal and evidentiary record before the Commission does not support the issuance of a Small Power Plant Exemption.

Respectfully submitted,

Tammy Bouyer, Chair, Taxpayers for Accountability for Our Groundwater
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