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8 Attorneys for Petitioner

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF IMPERIAL

11 IMPERIAL IRRIGATION DISTRICT,

12 Petitioner,

13 v.

14 CALIFORNIA INDEPENDENT SYSTEM
15 OPERATOR, and DOES 1-20, inclusive,

16 Respondents,

Case No.

**PETITION FOR WRIT OF MANDAMUS
AND COMPLAINT FOR INJUNCTIVE
DECLARATORY RELIEF UNDER
CALIFORNIA'S PUBLIC RECORD LAWS**

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19 **I.**

20 **INTRODUCTION**

21 1. Petitioner the Imperial Irrigation District (IID), entered the power industry in 1936.
22 Today, IID serves electricity to more than 145,000 customers in Imperial County, California and
23 parts of Riverside and San Diego counties. IID is the largest irrigation district in the nation.

24 2. Respondent California Independent System Operator (CAISO) is supposed to be a
25 **non-profit** public interest corporation organized under the laws of the State of California. Under
26 California Public Utilities Code § 337(a), CAISO board of directors shall be composed of a five-
27 member independent governing board of directors appointed by the Governor and subject to
28 confirmation by the Senate. Under California Public Utilities Code § 345.5, CAISO shall make

1 the most efficient use of available energy resources, reduce overall economic cost to the state's
2 consumers, conform CAISO decisions to state law intended to protect the public's health and the
3 environment, maximize availability of existing electric generation resources necessary to meet the
4 needs of the state's electricity consumers, conduct internal operations in a manner that minimizes
5 cost impact on ratepayers, communicate with all balancing area authorities in California in a
6 manner that supports electrical reliability, consult and coordinate with appropriate local agencies
7 to ensure CAISO operates in furtherance of state law regarding consumer and environmental
8 protection, and ensure that CAISO's purposes and functions are consistent with the purposes and
9 functions of nonprofit, public benefit corporations in the state, including duties of care and
10 conflict-of-interest standards for officers and directors of a corporation.

11 3. Under California Public Utilities Code § 345.5(c)(3), CAISO is required to
12 maintain open meeting standards and meeting notice requirements consistent with the general
13 policies of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of
14 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and afford the public the
15 greatest possible access, consistent with other duties of the corporation.¹

16 4. Under California Public Utilities Code § 345.5(c)(4), CAISO is required to provide
17 public access to corporate records consistent with the general policies of the California Public
18 Records Act [Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the
19 Government Code] and affording the public the greatest possible access, consistent with the other
20 duties of the corporation.² (California Public Records Law)

21 5. Petitioner IID is located in the City of El Centro, which encompasses all of
22 Imperial County. The IID does business with CAISO from IID operating headquarters which is
23 located at 333 East Barioni Boulevard, Imperial County, CA 92251.

24 ¹ Pub. Util. Code. § 345.5(c)(3) provides: CAISO Open Meeting Policy, as adopted on April 23,
25 1998, and in effect as of May 1, 2002, meets the requirements of this paragraph. The Independent
26 System Operator shall maintain a policy that is no less consistent with the Bagley-Keene Open
Meeting Act than its policy in effect as of May 1, 2002.

27 ² Pub. Util. Code § 345.5 (c)(4) provides: The CAISO Information Availability Policy, as
28 adopted on October 22, 1998, and in effect as of May 1, 2002, meets the requirements of this
paragraph. The CAISO shall maintain a policy that is no less consistent with the California Public
Records Act than its policy in effect as of May 1, 2002.

1 **II.**

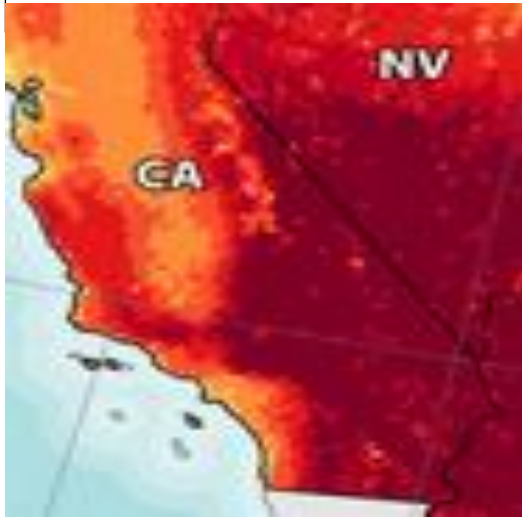
2 **SUMMARY OF ALLEGATIONS**

3 6. Imperial County, California ranks among the top agricultural counties in the
4 nation. IID is the largest irrigation district in the nation, and the sixth largest electrical utility in
5 California serving more than 150,000 customers.

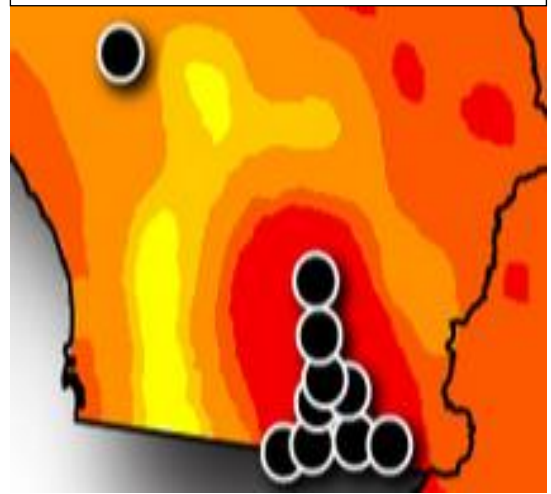
6 **A. IMPERIAL VALLEY RENEWABLE ENERGY FOR CALIFORNIA**

7 7. Over **8,480** megawatts (MW) of renewable energy has been identified as available
8 for development in Imperial County, according to California’s lead energy agencies. Further, the
9 United States government’s primary laboratory for renewable energy, energy efficiency research,
10 and development -- the National Renewable Energy Laboratory (NREL) -- has identified Imperial
11 County as some of the most favorable regions for solar and geothermal energy in the nation, as
12 shown here on two NREL energy potential maps:

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14 **NREL Map Solar Resources
Concentrated in Imperial County**



23
24 **NREL Gives Imperial County Most
Favorable Geothermal Rating**

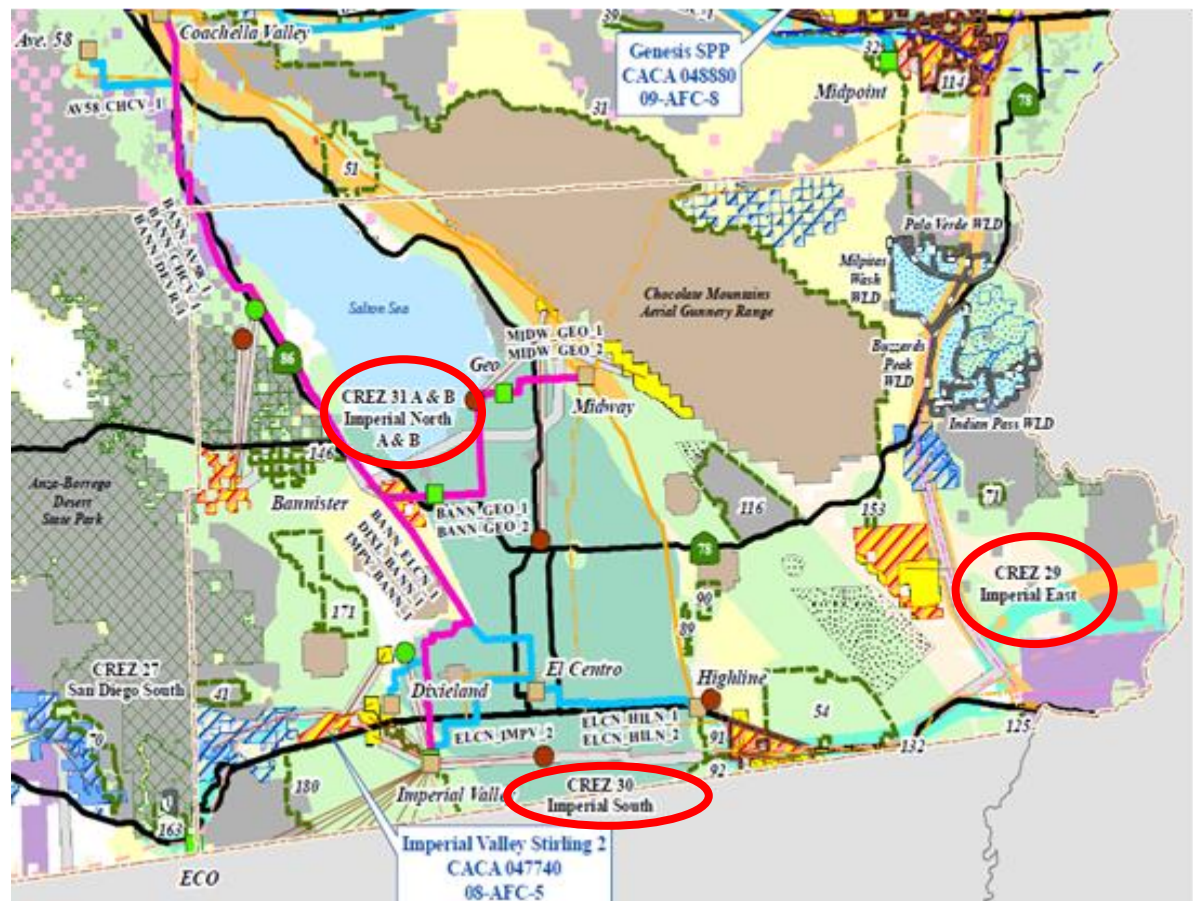


8. The California Public Utilities Commission (CPUC), California Energy
Commission (CEC), and CAISO, as part their collaborative, created a “Renewable Energy
Transmission Initiative” (RETI) to identify the transmission projects needed to accommodate
California’s renewable energy goals. Competitive Renewable Energy Zones (CREZs) were

1 identified for areas with the greatest potential for cost-effective and environmentally responsible
 2 renewable development. In 2010, the following renewable energy zones were identified in the
 3 IID areas with 8,489 MW of four types of renewable energy:

	Biomass	Geothermal	Solar Thermal	Wind	Total
Imperial East	-	-	1,500	74	1,574
Imperial North-A	-	1,370	-	0	1,370
Imperial North-B	30	0	1,800	0	1,830
Imperial South	36	64	3,570	45	3,715
TOTAL	66	1,434	6,870	119	8,489

9. The RETI report identified four Competitive Renewable Energy Zones (CREZ) in
 Imperial Valley (1. Imperial East 29; 2. Imperial South 30; 3. Imperial North 31A; and 4.
 Imperial North 31 B) all of which are mostly located in the heart of IID's service areas:



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1 10. Geothermal resources in Imperial Valley are located principally in the north part of
2 Imperial County, or CREZ 31A and CREZ 31B:

3 **Cluster of 7 Geothermal Plants in North Imperial Irrigation District Territory**

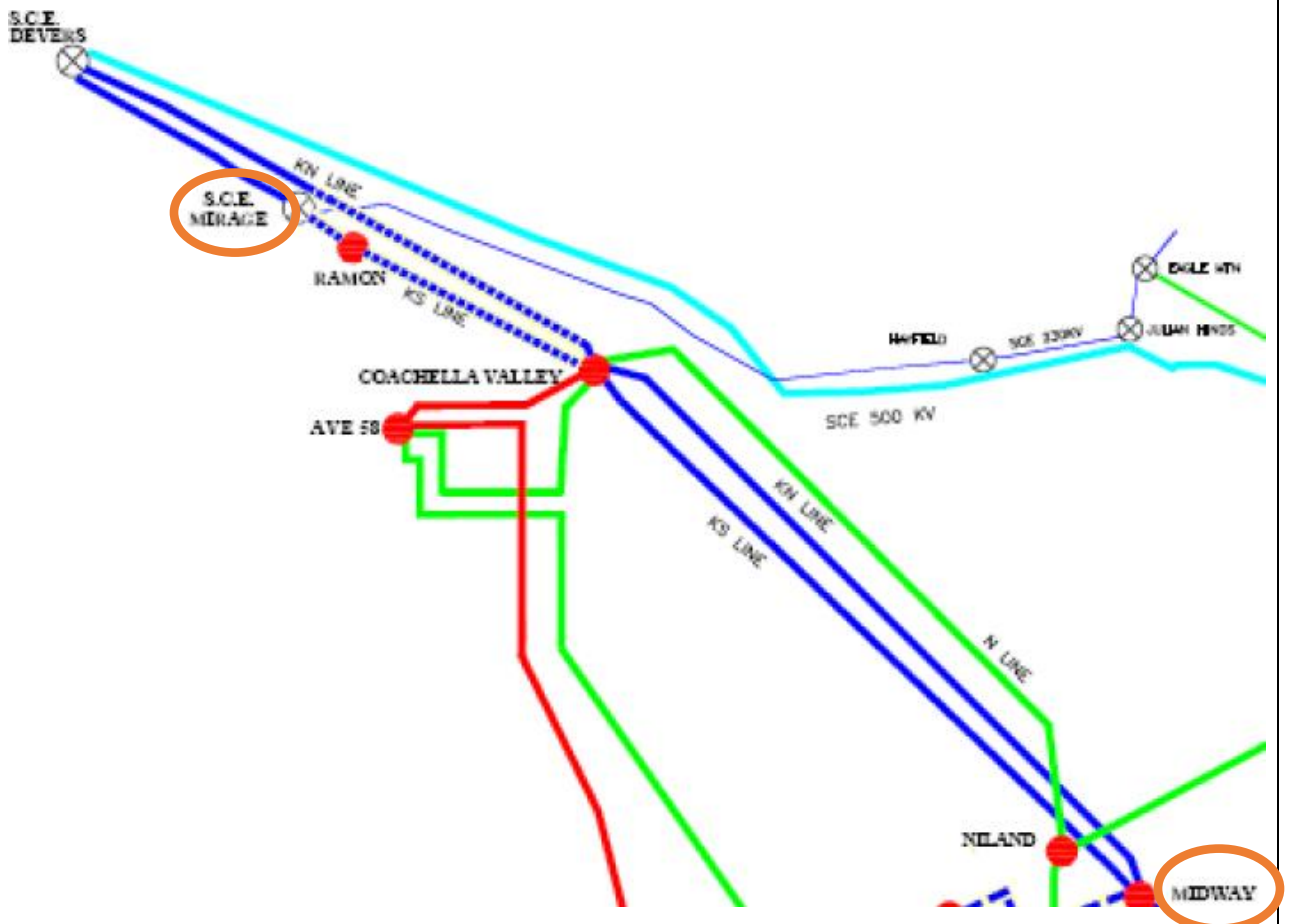


14 11. While solar power resources are not limited to any one part of IID’s territory, they
15 are principally located in Imperial South near Mount Signal, or CREZ 30:



1 **B. IID TRANSMISSION LINES CAN TRANSPORT RENEWABLE ENERGY**

2 12. IID has two electric transmission lines (the “KN/KS line”) connecting the
3 Imperial Valley geothermal and solar renewable resources through the Midway substation to the
4 CAISO at the Mirage substation:



20 13. In South Imperial County, the IID has a 230 kilovolt (kV) electric transmission
21 line (the “S line”) connecting the Imperial Valley geothermal and solar renewable resources to the
22 CAISO at the Imperial Valley substation:

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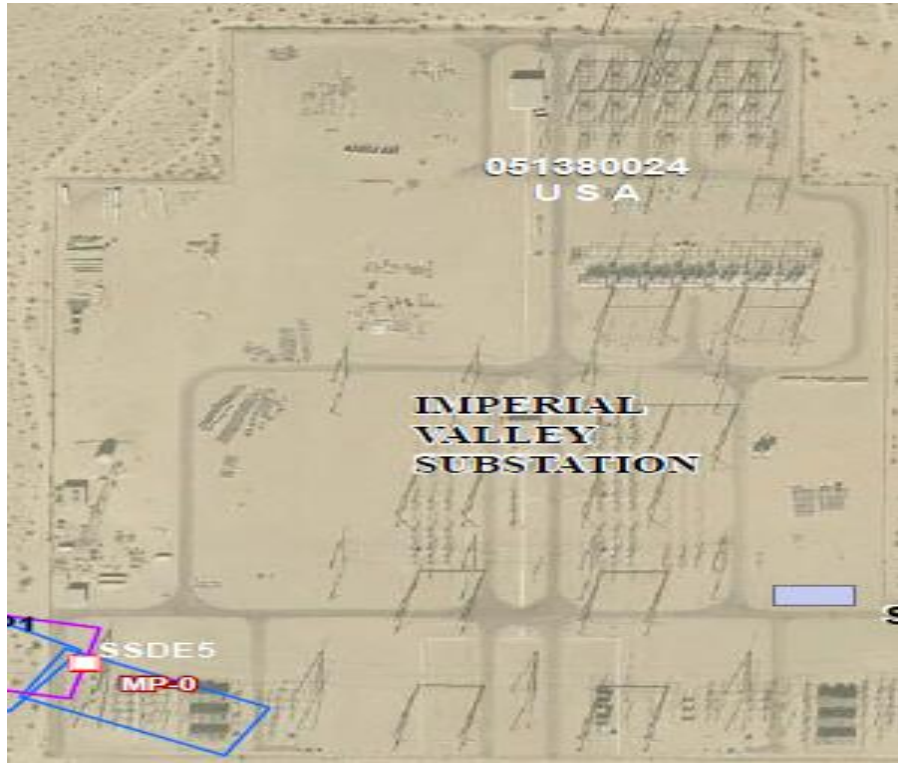
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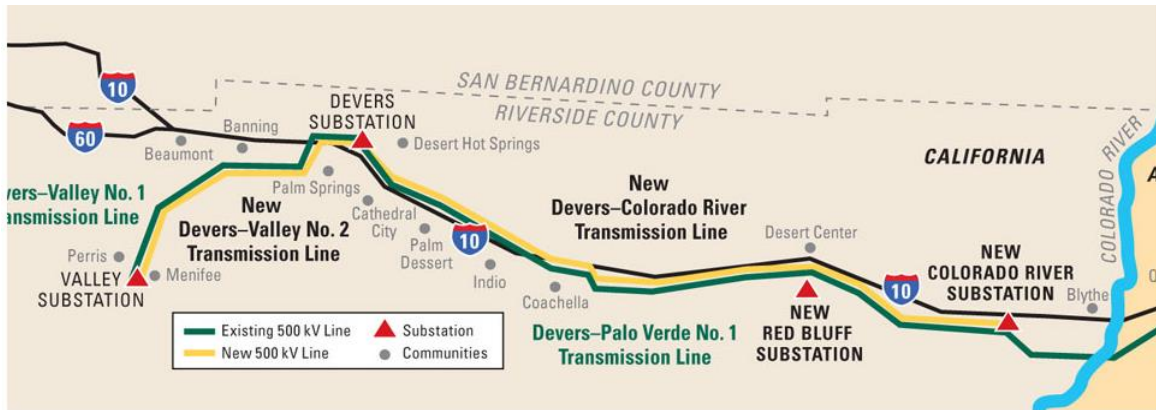
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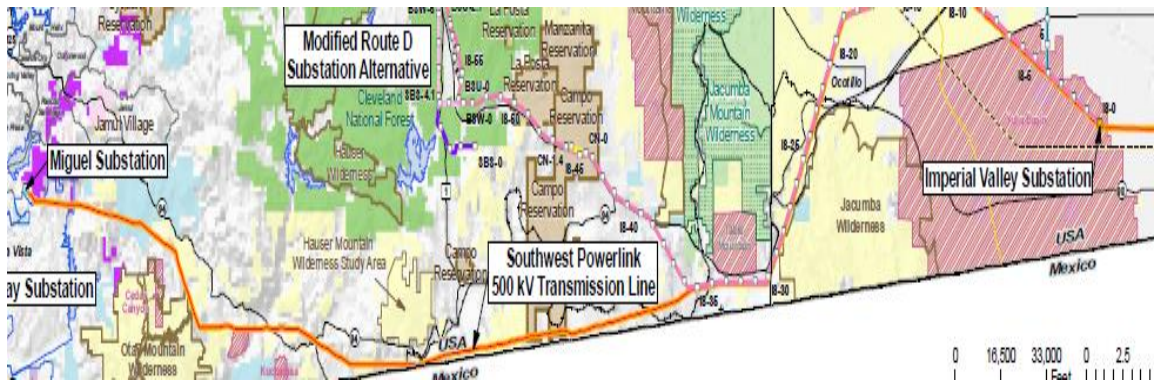
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14. Once the renewable energy transported on IID's 230 kV lines (the KN and KS lines) reaches the Mirage Substation, it is stepped up to 500 kV and carried on CAISO's 500 kV lines to load serving utilities:



15. Once the renewable energy transported on IID's 230 kV lines (the S line) reaches the Imperial Valley Substation, it is stepped up to 500 kV and carried on CAISO's two 500 kV lines to load serving utilities:



16. As of December 31, 2014, California has 21,000 MW of renewable energy (18,800 MW Wholesale; 2,200 MW Self-generation). On September 14, 2015, CAISO estimated peak daily demand at around 36,744 MW (on the high side of daily peak demand). Imperial County has significant amounts of undeveloped renewable geothermal energy capable of serving load that produces less greenhouse gases than traditional alternatives.

17. Rather than support the development of Imperial Valley's geothermal and other renewable energy, CAISO is blocking its development because the renewable energy would have to be transported through the IID balancing authority. This would produce wheeling fees for IID, thereby strengthening IID's financial condition and ability to provide low cost electricity.

18. Under California Public Utilities Code § 345.5, CAISO is failing to make the most efficient use of available energy resources, reduce overall economic cost to the state's consumers, conform CAISO decisions to state law intended to protect the public's health and the

1 environment, maximize availability of existing electric generation resources necessary to meet the
2 needs of the state's electricity consumers, conduct internal operations in a manner that minimizes
3 cost impact on ratepayers, communicate with all balancing area authorities in California in a
4 manner that supports electrical reliability, or to consult and coordinate with appropriate local
5 agencies to ensure CAISO operates in furtherance of state law regarding consumer and
6 environmental protection as required by statute.

7 19. Under California Public Utilities Code § 345.5(c)(3), CAISO is not meeting its
8 duty to maintain open meeting standards and meeting notice requirements consistent with the
9 general policies of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section
10 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and afford the
11 public the greatest possible access, consistent with other duties of the corporation.

12 20. Under California Public Utilities Code § 345.5(c)(4), CAISO is not meeting its
13 duty to provide public access to corporate records consistent with the general policies of the
14 California Public Records Act [Chapter 3.5 (commencing with Section 6250) of Division 7 of
15 Title 1 of the Government Code] or to afford the public the greatest possible access, consistent
16 with the other duties of the corporation. (California Public Records Law)

17 21. CAISO leadership is moving in the opposite direction; it now seeks to remove
18 itself from the regulatory jurisdiction of the State of California by expanding its jurisdiction to
19 include Oregon, Wyoming, Utah, and Arizona.

20 22. Numerous questions have arisen as to why CAISO does not allow the IID to fully
21 utilize its renewable resource potential and how easier access to renewable generation from other
22 balancing authorities within the state of California could be obtained.

23 23. In order to explore these areas of important public interest and to be able to
24 consider alternative policies, IID has requested but has not received meaningful response to the
25 following records requests for writings under California's Public Records Law.

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III.

**REQUESTS FOR RECORDS OF COMMUNICATION UNDER
CALIFORNIA PUBLIC RECORDS LAW**

**1. Request #1 for Communications Regarding the MIC Assigned to IID
from 2011 to Date**

24. On July 2, 2015, pursuant to California Public Records Law, the IID requested any writings, as defined by California Evidence Code §250, related to the “Maximum Import Capability [MIC] of renewable energy from the Imperial Irrigation District (IID) territory or the Imperial Competitive Renewable Energy Zone (CREZ) for the period of January 2011 to date.”

25. The IID requested these communications from key decision makers at CAISO including: the Board of Governors (Ashutosh Bhagwat, Angelina Galiteva, Richard Maullin, and David Olsen); the President and Chief Executive Officer (Stephen Berberich); Officers of the Market and Infrastructure Development (Keith Casey, Robert Sparks, and Neil Miller); Officers of the Policy & Client Services Section (Karen Edson, Tom Cuccia, and Dennis Peters); and transmission engineers (Songzhe Zhu, Yi Zhang, Hong Zhou, and Binaya Shrestha). These writings were specifically requested to discover any communications that had taken place at CAISO regarding the decision that there was no availability on CAISO’s transmission lines for the renewable energy in Imperial County.

26. CAISO initially refused to provide any responsive documents. To this day, CAISO has failed to produce a single email or record of communication relating to IID’s MIC from the period of January 2011 to date. However, CAISO produced 17,000 pages of pdfs which are simply lifted off of its website, and are not even logically unitized. A review of that massive data dump reveals that it does not contain any emails or text messages (and attachments). Accordingly, this petition is necessary for IID to obtain the public records which CAISO is required by law to produce.

2. Request #2 for Communications Regarding Change to IID MIC for 2016

27. On July 13, 2015, pursuant to California Public Records Law, the IID requested “all records of communication” relating to a letter dated 9 July 2015 from Neil Millar (CAISO

1 Executive Director of infrastructure development) to Carl Stills (IID Energy Manager) titled
2 “Imperial Irrigation District Balancing Authority Area 2016 Maximum Import Capability” (MIC).
3 The IID addressed this request for communications to Neil Millar as he was the author of the
4 letter containing information regarding the identification of “additional deliverability for 2016 for
5 the Imperial area.”

6 28. By requesting communications regarding the change in MIC, the IID was trying to
7 discover how CAISO determined the potential for additional deliverability. The July 9, 2015
8 letter also stated CAISO’s intent “to adjust the MIC upward and conduct future planning
9 activities to maintain that level going forward to reflect the generation development that has taken
10 place in IID and have capacity contracts with CAISO load serving entities, once the necessary
11 transmission upgrades are in place.”

12 29. CAISO has failed to produce a single email or record of communication regarding
13 the letter dated July 9, 2015, or the IID’s 2016 MIC as determined by CAISO.

14
15 **3. Request #3 for Communications Regarding the ISO 2010/2011 Transmission**
Plan Memorandum and Upgrades to Path 42

16 30. On July 21, 2015, pursuant to California Public Records Law, the IID requested
17 any communications “mentioning or relating to the CAISO Memorandum regarding the Decision
18 on the ISO 2010/2011 Transmission Plan dated May 11, 2011 and the policy-driven transmission
19 upgrades to the Devers-Mirage 230kV double circuit line (Path 42).”

20 31. The IID sent this request to IID’s Senior Counsel, pursuant to a July 17, 2015
21 letter, in which CAISO requested “all future communications regarding” records requests from
22 the IID be directed to his attention as senior counsel.

23 32. CAISO has failed to produce a single email or record of communication regarding
24 the decision-making process which resulted in the finding that Path 42 was a policy-driven
25 element necessary to support California renewable energy goals.

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1 **4. Request #4 for Communications Regarding the July 30, 2014 Technical**
2 **Addendum to the July 2, 2014 Imperial County Transmission Consultation Draft**
3 **Discussion Paper**

4 33. On July 21, 2015, pursuant to California Public Records Law, the IID sent a
5 written request to CAISO requesting any communications “relating to the July 30, 2014
6 Technical Addendum to the July 2, 2014 Imperial Country Transmission Consultation Draft
7 Discussion Paper.”

8 34. CAISO has failed to produce a single email or record of communication relating to
9 the technical addendum to the Imperial County Transmission consultation that discussed current
10 resource deliverability capabilities from Imperial Valley.

11 **5. Request #5 for Communications Mentioning or Relating to the IID and the Joint**
12 **Letter Dated April 18, 2011**

13 35. On July 21, 2015, pursuant to California Public Records Law, the IID sent a
14 written request to CAISO requesting any communications “mentioning or relating to the Imperial
15 Irrigation District (IID) and the joint letter dated April 18, 2011 to Mr. Picker, senior advisor in
16 the California Governor’s office, regarding resource adequacy deliverability.”

17 36. CAISO has failed to produce a single email or record of communication regarding
18 the letter to Mr. Picker from CASIO regarding the IID and resource adequacy.

19 **6. Request #6 for Communications Regarding the 2011/2012 Conceptual Statewide**
20 **Transmission Plan Update and Upgrades to Path 42**

21 37. On July 21, 2015, pursuant to California Public Records Law, the IID sent a
22 written request to CAISO requesting any communications “mentioning or relating to the
23 2011/2012 Conceptual Statewide Transmission Plan Update and the transmission upgrades to
24 Path 42.”

25 38. CAISO has failed to produce a single email or record of communication
26 mentioning or relating to the 2011/2012 Conceptual Statewide Transmission Plan Update and the
27 transmission upgrades to Path 42 relating to the IID.

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1 **7. Request #7 for Communications between CAISO and the Federal Energy**
2 **Regulatory Commission (FERC) regarding the IID**

3 39. On July 24, 2015, pursuant to California Public Records Law, the IID sent a
4 written request to CAISO requesting any communications between CAISO and FERC “from
5 January 1, 2011 to present in which the words "Imperial Irrigation District" or its acronym, "IID"
6 appear.”

7 40. This request specifically identified that its intent was to request “letters, notes,
8 memoranda, emails, text messages, and calendar invites.”

9 41. CAISO has failed to produce a single email or record of communication between
10 themselves and FERC relating to the IID.

11 **8. Request #8 IID Sent A Compilation of All Previous Requests for**
12 **Communications**

13 42. On July 29, 2015, the IID copied every single previous written request for
14 communications to the CAISO Public Records Request Coordinator, as previous requests
15 directed to IID’s Senior Counsel, pursuant to his request, did not result in the production
16 of a single communication. In this written request, the IID offered to work with CAISO to
17 accommodate production of records sought by the most efficient means possible.

18 43. CAISO again failed to produce a single email or record of communication
19 in response to the compilation of IID’s previous requests for communications.

20 **9. Request #9 for Communications relating to Project No. 104,**
21 **the West of Devers Interim Project**

22 44. On August 4, 2015, pursuant to California Public Records Law, the IID
23 requested all communications with any officer, employee or agent of CAISO and
24 Southern California Edison (SCE) relating to Project No. 104 - West of Devers (WOD)
25 Interim Project.

26 45. CAISO again failed to produce a single email or record of communication
27 regarding the West of Devers Interim Project.

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