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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF IMPERIAL

Tom Dubose, Kevin Smith, Ryan Dickerson, Daryl Dickerson and Carl Stills Petitioners vs. County of Imperial et. al. Respondents Kristian Salgado, et. al. Real Parties in Interest	Case No: ECU04709 Assigned for all Purposes Honorable Judge Jeffrey B. Jones Department: 5 **EX PARTE APPLICATION FOR ISSUANCE OF AN ORDER DISMISSING THE VERIFIED PETITION AS MOOT** Date: **Thursday, June 4, 2026** Time: 8:30 a.m. Dept: 5 (Judge Jones)

EX PARTE APPLICATION FOR ISSUANCE OF AN ORDER DISMISSING THE VERIFIED PETITION AS MOOT

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on Thursday, June 4, 2026, at 8:30 a.m., in Department 5 of the above-entitled Court, located at 939 W. Main Street, El Centro, California 92243, Petitioners Tom Dubose, Kevin Smith, Ryan Dickerson, Daryl Dickerson, and Carl Stills (collectively, "Petitioners") will and hereby do apply ex parte for an order dismissing the Verified Petition for Writ of Mandate, Declaratory and Injunctive Relief as moot.

Petitioners filed this pre-election challenge contending that the Imperial County Data Center Prohibition Act initiative (the "Initiative") was invalid on multiple independent grounds, including: (a) Violation of the single-subject rule (Cal. Const., art. II, § 8(d)), by impermissibly bundling a land-use/zoning ban with a separate and distinct ethics, disclosure, criminal enforcement, bond liability, and private right of action regime; (b) Exceeding the scope of local initiative power by attempting to usurp administrative, ministerial, and quasi-judicial functions of county government; (c) Retroactivity and vested rights concerns; and (d) First Amendment violations, Political Reform Act preemption, due process and bill of attainder issues (particularly the 5-year "revolving door" and Section 13 provisions), and separation of powers problems.

Elections Code § 9118.5 provides that "the proponent of an initiative may withdraw the initiative at any time before the 88th day before the election, whether or not the petition has already been found sufficient by the elections official."

On May 19, 2026, all five official proponents of the Initiative -- Real Parties in Interest Kristian Salgado, Francisco Leal, Christopher Scurries, James Tison, and Jacob Rodriguez -- delivered a written notice of withdrawal to Respondent Linsey Dale, Imperial County Registrar of Voters, pursuant to Elections Code § 9118.5. A true and correct copy of that withdrawal letter, bearing the Registrar's stamp of receipt dated May 19, 2026, is **attached hereto as Exhibit A** and incorporated by reference.

Because the Initiative has been validly withdrawn, it will not be processed further by the Registrar of Voters, will not be certified for the ballot, and will not be submitted to the voters of Imperial County. The core relief sought in the Verified Petition -- an order directing Respondents not to process, certify, circulate, or submit the Initiative to the voters -- can no longer be granted. As a result, no live justiciable controversy remains before this Court.

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Under well-established California law, a pre-election challenge to an initiative becomes moot when the challenged measure is voluntarily withdrawn by its proponents. (See, e.g., *Wilson v. Superior Court* (2018) 23 Cal.App.5th 162; *Citizens for Responsible Government v. City of Santa Rosa* (1998) 60 Cal.App.4th 1050.)

Accordingly, Petitioners respectfully request that the Court issue an order: Dismissing the Verified Petition for Writ of Mandate, Declaratory and Injunctive Relief in its entirety as moot; and Providing that the dismissal is without prejudice to the filing of a new action in the event a new or revised initiative measure concerning data centers is later filed with the Imperial County Registrar of Voters.

This Application is made on this Notice, and the Declaration of Sebastian Rucci (containing both the factual showing required by California Rules of Court, rule 3.1202(c), and the notice declaration required by rule 3.1204(b)).

This application is made in good faith based upon the official proponents' voluntary withdrawal of the Initiative.

Respectfully submitted,

LAW OFFICES OF SEBASTIAN RUCCI, P.C.

Sebastian Rucci

Dated: June 2, 2026

Sebastian Rucci (State Bar #178114)
Attorneys for Petitioners

ATTORNEY'S CERTIFICATE OF SERVICE BY E-MAIL

I, Sebastian Rucci, certify that I am an active member of the State Bar of California and am not a party to this cause. My business address is 16400 Pacific Coast Highway, Suite 212, Huntington Beach, CA 92649.

I CERTIFY THAT on June 2, 2026, the **ex Parte Application for Issuance of an Order Dismissing the Verified Petition as Moot** to County counsel for the County of Imperial, Geoffrey Holbrook at geoffreypholbrook@co.imperial.ca.us and real party in interest James Tison at JakeTison@cox.net by One Legal, through www.onelegal.com interface.

I FURTHER CERTIFY THAT on June 2, 2026, the **ex Parte Application for Issuance of an Order Dismissing the Verified Petition as Moot** to County counsel for the County of Imperial, Geoffrey Holbrook at geoffreypholbrook@co.imperial.ca.us and real party in interest James Tison at JakeTison@cox.net from Sebastian@Rucci.Law. The transmission was complete without error and I did not receive an electronic notification to the contrary.

LAW OFFICES OF SEBASTIAN RUCCI, P.C.

Sebastian Rucci (State Bar #178114)
Attorneys for Petitioners

EXHIBIT A

VIA PERSONAL DELIVERY

May 19, 2026

Linsey Dale
Registrar of Voters
County of Imperial
940 West Main Street, Suite 206
El Centro, California 92243

Re: Withdrawal of The Imperial County Data Center Prohibition Act Initiative

Dear Ms. Dale:

We, the undersigned official proponents of The Imperial County Data Center Prohibition Act initiative ("Initiative"), hereby withdraw the Initiative pursuant to Elections Code Section 9118.5.

Sincerely,

Kristin Salgado

Francisco Leal

Christopher Scurries

James Tison

Jacob Rodriguez

Registrar of Voters
MAY 19 2026
Imperial County

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