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ELECTRONICALLY FILED
Superior Court of California,
County of Imperial
07/15/2026 at 11:12:58 PM
By: Angela Jantz, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF IMPERIAL

IMPERIAL VALLEY COMPUTER MANUFACTURING, LLC a California limited liability company; Petitioner, vs. COUNTY OF IMPERIAL, a general law county, and IMPERIAL COUNTY BOARD OF SUPERVISORS, Respondents,	Case No: ECU004800 Judge: Honorable Jeffrey B. Jones **SUPPLEMENTAL VERIFIED PETITION FOR WRIT OF MANDATE AND DECLARATORY RELIEF** (Code Civ. Proc. §§ 464, 1060, 1085) SECOND CAUSE OF ACTION Writ of Mandate (Code Civ. Proc. § 1085); Dec. Relief (Code Civ. Proc. § 1060)

SUPPLEMENTAL VERIFIED PETITION FOR WRIT OF MANDATE AND DECLARATORY RELIEF

Petitioner, Imperial Valley Computer Manufacturing, LLC ("Petitioner"), pursuant to Code of Civil Procedure § 464 and with leave of Court, alleges the following supplemental facts, which occurred after the filing of the Verified Petition for Writ of Mandate and Declaratory Relief, on June 22, 2026, against Respondents County of Imperial and the Imperial County Board of Supervisors (collectively, the "County"), as follows:

1 - INTRODUCTION

98. This Supplemental Petition incorporates by reference each and every allegation of the Verified Petition for Writ of Mandate and Declaratory Relief filed June 22, 2026 (the "Petition"), as though fully set forth herein, and alleges material facts arising after its filing:

1.1 **The County's July 14, 2026 extension of the void Moratorium**.

99. On July 14, 2026, one day before the noticed hearing on Petitioner's motion for a peremptory writ of mandate, the Board of Supervisors adopted Ordinance No. _____ (the "Extension Moratorium"), purporting to extend the Moratorium for an additional ten months and fifteen days pursuant to Government Code § 65858(a). A true and correct copy of the Extension Moratorium is attached as **Exhibit 10**.

100. The timing is not a coincidence. The Extension Moratorium was rushed to adoption on the eve of judicial review in an attempt to moot the challenge to the June 16, 2026 Moratorium. It fails for the same reasons the Moratorium fails, and for new ones of its own: the Board never issued the written report that Government Code § 65858(d) makes a mandatory predicate to any extension, and its findings identify no threat to public health, safety, or welfare beyond the circular assertion that projects would conflict with regulations the County has not yet written.

2 - SUPPLEMENTAL FACTUAL ALLEGATIONS

2.1 **The County Adopted the Extension Moratorium on July 14, 2026**.

101. The Extension Moratorium was transmitted to the Board under cover of a letter from the County Executive Officer on July 9, 2026, and the Extension Moratorium was adopted at the Board's July 14, 2026 meeting.

102. Like the Moratorium, the Extension Moratorium provides that no permit or entitlement for a data center facility shall be issued while it remains in effect, and it applies to all currently pending applications, including Petitioner's site plan and grading applications, which the County deemed complete before the Moratorium was adopted. Although Finding 8 of the Extension Moratorium recites that the County "currently has

several applications pending," that finding does not identify any other application that has been deemed complete, and Petitioner is informed and believes, and on that basis alleges, that Petitioner's applications are the only deemed-complete data center applications whose processing the Moratorium and the Extension Moratorium have actually suspended.

2.2 **The Board Never Issued the Written Report Required by § 65858(d)**.

103. Government Code § 65858(d) provides: "Ten days prior to the expiration of that interim ordinance or any extension, the **legislative body shall issue** a written report describing the measures taken to alleviate the condition which led to the adoption of the ordinance."

104. The subdivision (d) report is not a clerical formality; it is the legislative body's public accounting of what, if anything, has been done to alleviate the emergency that justified suspending lawful uses without ordinary notice and hearing. It operates in tandem with subdivision (c), which forbids the legislative body to "adopt or extend" an interim ordinance without findings of a current and immediate threat. Whether the claimed condition persists despite the measures taken -- the very question the report exists to answer -- is the predicate for any lawful extension. Where the legislative body elects to act on an extension, the structure and purpose of the statute require that the report precede the extension hearing: a report issued only after the ordinance has been prolonged is an empty recital about a decision already made, and the noticed public hearing is conducted without the one document the statute directs to inform it.

105. The Board issued no written report describing any measures taken to alleviate the condition that led to the adoption of the Moratorium -- not before the July 14, 2026 extension hearing, not at that hearing, and not since. No such report appears in the Extension Moratorium or anywhere in the County's publicly available legislative materials. Petitioner is further informed and believes, and on that basis alleges, that no such report was or will be issued by July 21, 2026, ten days prior to the Moratorium's July 31, 2026 expiration.

106. The absence of the report invalidates the Extension Moratorium in two independent respects. First, because the Board extended the Moratorium without ever issuing the report subdivision (d) makes mandatory, the Extension Moratorium was adopted in excess of the authority the statute confers and is invalid. Second, and in all events, the absence of any report is an admission by omission: there were no "measures taken to alleviate the condition" because there was never a condition to alleviate. The missing report thus independently confirms that the "current and immediate threat" findings required by subdivision (c) are recitals without substance.

2.3 **The Extension Moratorium's Findings Recite the Statutory Words but Identify No Threat**.

107. The Extension Moratorium's findings now recite that the approval of permits or entitlements "would result" in a threat to public health, safety, and welfare. But the only "threat" the findings identify is that data center projects would conflict with amendments to the County's land use regulations that the County is still studying and has not adopted.

108. Inconsistency with contemplated, unwritten future regulations is not a threat to public health, safety, or welfare; it is a description of every by-right use during any study period. The finding is circular: the "emergency" exists only because the County has decided to study new rules.

109. The only evidentiary support the findings recite is awareness "of concerns regarding adverse effects of Data Center Facilities, including the proximity of such uses to residential neighborhoods." The adverse effects are not identified, but purportedly the County is aware of adverse effects. The only such effect listed is the proximity to residences. But concerns of adverse effects, are not evidence of a threat to public health.

110. The Extension Moratorium's own findings confirm the defect. Finding 10 recites that permits "would be issued administratively and without review by the Board of Supervisors." Administrative issuance of a by-right permit is not a harm; it is how every by-right use in California is approved, and it describes the County's zoning code operating exactly as written.

111. Finding 11 is circular on its face: it declares the threat exists "[b]ecause Data Center Facilities . . . are permitted by-right, the County currently has limited ability to review" them. The County's own lawful zoning is the declared emergency. And Finding 11's recital that inconsistent development is "otherwise imminent" is a bare conclusion contradicted by the County's own April 7, 2026 record, where the Planning Director confirmed that no permits had been authorized and that water and electrical hookups must precede any occupancy. Under *Huntington Park*, the Court independently tests whether the recited facts - not the recited conclusions - constitute an urgency.

112. Finding 12 repeats the contradiction that invalidates the original Moratorium. Immediately after Finding 10 declares a "current and immediate threat," Finding 12 recharacterizes the same harms as "potential harms . . . should Data Center Facilities be permitted or constructed." A potential harm is the opposite of a current and immediate one. The County had thirty days and this lawsuit to cure that defect, and re-adopted it.

113. Whether recited facts may be held to constitute an urgency is a legal question the Court reviews independently, and the recitation of statutory words cannot supply what the recited facts withhold. (*California Charter Schools Assn. v. City of Huntington Park* (2019) 35 Cal.App.5th 362, 369-371.)

114. Nothing changed between June 16, 2026 and July 14, 2026. The findings identify no new fact, no new study, no new incident, and no measure taken to alleviate the claimed condition. They still do not mention Petitioner's Project, its 191-foot setback, its 20-foot acoustic berm, its 1,000-foot equipment buffer, or the year of cooperative processing that preceded the freeze. Findings adopted to prolong a freeze of a specific project that never discuss that project are not legislative findings of a threat. Nor can the County point to its advisory committee or its circulating draft guidelines as measures taken to alleviate the condition: commissioning a study of future regulations is the study period itself, not a measure alleviating any present threat, and § 65858 presumes a study will occur during every interim ordinance. If creating a committee were itself the cure, every extension would be self-justifying.

115. The Extension Moratorium's duration also refutes its premise. The advisory committee the County created is to present its recommendations to the Board by October 1, 2026, yet the Extension Moratorium freezes data centers for ten months and fifteen days, through June 15, 2027, more than eight months after the committee's report is due. An "emergency" freeze that outlasts its own study by eight months is not an interim measure tailored to a current and immediate threat; it is a prohibition.

2.4 **The Extension Moratorium Continues the Unlawful Freeze of Deemed-Complete Applications**.

116. The Extension Moratorium continues to suspend all action on Petitioner's site plan and grading applications, which the County deemed complete before the Moratorium was adopted. Government Code § 65858 authorizes an interim ordinance prohibiting "uses"; it does not authorize a legislative body to prohibit or suspend the processing of development applications. (*Building Industry Legal Defense Foundation v. Superior Court* (1999) 72 Cal.App.4th 1410, 1413-1418.) Nor does a later-enacted moratorium or its extension toll the mandatory deadlines of the Permit Streamlining Act. (Gov. Code § 65920 *et seq*.; *Selinger v. City Council* (1989) 216 Cal.App.3d 259, 269-271.) In the alternative, to the extent the Permit Streamlining Act does not govern because the site plan and grading permits are ministerial, Respondents' duty to act on them is immediate, nondiscretionary, and enforceable in mandate without regard to that Act's deadlines.

117. Section IV's recital that applications "may be accepted and processed" during the moratorium does not bring the ordinance within the statute. Processing that can never ripen into action for the life of the moratorium and every extension of it -- "no permit or entitlement shall be issued until the moratorium, including any extension of the moratorium, has expired" -- is the constructive denial of a completed application, not the processing of one, and it guarantees that the Permit Streamlining Act's deadlines will be violated rather than met. What *Building Industry* forbids in form, Section IV accomplishes in substance.

118. Section IV's second proviso makes the displacement explicit: no permit will issue "if it is inconsistent with any County laws, ordinances, General Plan, or regulations that are amended or adopted by reason of the review that occurs during the moratorium." That provision subjects Petitioner's deemed-complete applications to regulations that did not exist when those applications were completed -- precisely what the County's own outside counsel conceded on the public record cannot be done: "[o]nce a permit application has been deemed complete by an agency, the applicable ordinances cannot subsequently be changed for that project." (Verified Petition ¶ 90.)

3 - THE EXTENSION MORATORIUM IS INVALID AS A MATTER OF LAW

119. A void ordinance cannot be extended. Government Code § 65858(c) provides that the legislative body "shall not adopt or extend" any interim ordinance without the required legislative findings. Because the June 16, 2026 Moratorium was adopted without those findings and is invalid ab initio (Verified Petition ¶¶ 64-86), there was no valid interim ordinance in existence to extend on July 14, 2026. The Extension Moratorium is the extension of a nullity, and is itself a nullity.

120. Independently, the Extension Moratorium is invalid because: (a) the Board never issued the written report that § 65858(d) requires; (b) its findings do not, as a matter of law, establish a current and immediate threat to the public health, safety, or welfare, or that approval of the frozen entitlements would result in such a threat, within the meaning of § 65858(c); (c) it suspends action on deemed-complete applications in violation of Building Industry and the Permit Streamlining Act; and (d) it remains an unlawful, targeted prohibition of a single permitted use and a single applicant.

SECOND CAUSE OF ACTION
Writ of Mandate and Declaratory Relief - Extension Moratorium
(Code Civ. Proc. §§ 1060, 1085)

121. The preceding paragraphs of the Petition and of this Supplemental Petition are incorporated into this cause of action by this reference as though fully set forth herein.

122. An actual, justiciable controversy exists between Petitioner and Respondents concerning the validity of the Extension Moratorium and its application to Petitioner's

pending applications. Petitioner contends, and is informed and believes Respondents dispute, that the Extension Moratorium is void and unenforceable because: (a) the Moratorium it purports to extend is invalid ab initio, and a void ordinance cannot be extended; (b) the Board failed to issue the written report mandated by Government Code § 65858(d) before extending the Moratorium; (c) the Extension Moratorium lacks the legislative findings required by Government Code § 65858(c); (d) § 65858 does not authorize freezing the processing of applications already deemed complete, and the extension violates the mandatory deadlines of the Permit Streamlining Act; and (e) the Extension Moratorium operates as an unlawful, targeted prohibition aimed at a single permitted use and a single applicant.

123. Respondents have a clear, present, and ministerial duty to process and act upon Petitioner's completed applications for a use the County has certified is permitted by right, and possess no lawful discretion to withhold action based on a void interim ordinance or its void extension. The adoption and threatened enforcement of the Extension Moratorium is action in excess of Respondents' statutory jurisdiction.

124. Petitioner has no plain, speedy, or adequate remedy in the ordinary course of law. Unless the Court intervenes, the Extension Moratorium will freeze Petitioner's completed, by-right applications for an additional ten months and fifteen days, compounding the harm to the Project's financing, electrical-interconnection position, and contractual commitments alleged in the Petition (Verified Petition ¶¶ 94, 97). These harms are immediate, ongoing, and not adequately compensable in damages.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays for judgment against Respondents on this Supplemental Petition, in addition to the relief sought in the Petition, as follows:

1. For a judicial declaration that the Extension Moratorium adopted July 14, 2026 (Exhibit 10) is invalid, void, and unenforceable;
2. For a peremptory writ of mandate commanding Respondents to set aside, vacate, and cease all enforcement of the Moratorium and the Extension Moratorium, and to

process and act upon Petitioner's site plan, grading permit, and associated entitlements under the zoning laws in effect when those applications were deemed complete, without regard to either ordinance;

3. For a temporary restraining order and preliminary injunction pending hearing and final judgment;

4. For an order awarding Petitioner its reasonable attorneys' fees and costs incurred herein, pursuant to Code of Civil Procedure § 1021.5; and

5. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

LAW OFFICES OF SEBASTIAN RUCCI, P.C.



Sebastian Rucci (State Bar No. 178114)
Attorneys for Petitioner

Date: July 15, 2026

VERIFICATION

I, Sebastian Rucci, declare:

I am the managing member of Petitioner, the Imperial Valley Computer Manufacturing, LLC, in the above-captioned action. I have read the foregoing **Supplemental Verified Petition for Writ of Mandate and Declaratory Relief** and know its contents. The matters stated therein are true of my own knowledge, except as to those matters stated on information and belief, and as to those matters I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 15, 2026, at Bermuda Dunes, California.

IMPERIAL VALLEY COMPUTER MANUFACTURING, LLC



Sebastian Rucci, managing member

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 July 15, 2026, the foregoing **Supplemental Verified Petition for Writ of Mandate and Declaratory Relief** was served electronically served on Nathan George at Ngeorge@rmmenvirolaw.com and Geoffrey Holbrook at geoffreypholbrook@co.imperial.ca.us by One Legal, through www.onelegal.com interface.

I FURTHER CERTIFY THAT on July 15, 2026, the foregoing **Supplemental Verified Petition for Writ of Mandate and Declaratory Relief** was served electronically served on Nathan George at Ngeorge@rmmenvirolaw.com and Geoffrey Holbrook at geoffreypholbrook@co.imperial.ca.us from my law office 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 No. 178114)
Attorneys for Petitioner

EXHIBIT 10

DATA CENTER EXTENDED MORATORIUM

(7-14-2026)

ORDINANCE NO. ____

AN URGENCY INTERIM ORDINANCE PURSUANT TO GOVERNMENT CODE SECTION 65858 EXTENDING A MORATORIUM ON THE APPROVAL OF DATA CENTER FACILITIES IN THE UNINCORPORATED AREA IN THE COUNTY OF IMPERIAL

SECTION I

In enacting this ordinance, the Board of Supervisors of the County of Imperial makes the following findings:

1. Government Code Section 65858 allows a county, after providing notice pursuant to Government Code Section 65090 and holding a public hearing, to extend a previously adopted interim urgency ordinance prohibiting uses which may be in conflict with a contemplated general plan, specific plan, or zoning proposal which the legislative body, planning commission or planning department is intending to study within a reasonable time; and

2. The County of Imperial ("County") regulates land uses in the unincorporated area of the County through various regulations including the General Plan and the Zoning Ordinance, including land uses that permitted by-right or conditionally permitted; and

3. Currently, certain Data Center Facilities are permitted by-right on light and medium industrial land in the unincorporated area of the County; and

4. The County is aware of concerns regarding adverse effects of Data Center Facilities, including the proximity of such uses to residential neighborhoods, schools, and other potentially sensitive uses; and

5. The County is in the process of studying the regulation of Data Center Facilities in the unincorporated area of the County, including potential amendments to the Zoning Code regarding the proximity of such uses to residential neighborhoods, schools, and other potentially sensitive uses; and

6. Data Center Facilities are described in Title 9 of the Imperial County Code as "Data centers", "Data center yard", and "Data center (within enclosed building)" and generally include buildings, structures or yards that house computer systems designed for the processing and storage of digital information and include accessory buildings, structures, facilities, and/or uses for data centers, including but not limited to, backup generators, backup battery energy storage systems, electrical substations, gen-tie lines, water treatment facilities, cooling systems, and transmission lines, when proposed as part of a Data Center Facility; and

7. The County has a compelling interest in protecting the public health, safety, and welfare of its residents within the unincorporated areas of the County by regulating Data Center Facilities as a land use; and

8. The County currently has several applications pending for by-right Data Center Facilities on industrial land, including industrial land subject to the Mesquite Lakes Specific Plan, that may be inconsistent with changes in the regulations, ordinances, or General Plan that the County is currently contemplating; and

9. The County anticipates increased applications for Data Center Facilities as such technology matures and becomes more cost effective and consumer demand grows; and

10. There is a current and immediate threat to public health, safety, and welfare from permits and/or entitlements for Data Center Facilities that, but for the temporary moratorium, would be issued administratively and without review by the Board of Supervisors. Such permits or entitlements would result in the development of facilities that conflict with the contemplated amendments to the County's land use regulations that are under review, and imposition of the moratorium will give the County time to introduce, review, and adopt a comprehensive revision of relevant County land use regulations; and

11. Because Data Center Facilities on light and medium industrial land in the unincorporated areas of the County are permitted by-right, the County currently has limited ability to review and ensure such uses would be consistent with the public health, safety, and welfare objectives that underly the contemplated land use regulations. Accordingly, this extension of the previously adopted temporary moratorium is necessary to prevent the current and immediate threat to the public health, safety, and welfare from inconsistent Data Center Facilities development that is otherwise imminent; and

12. In light of the concerns noted herein, including but not limited to the potential harms to the safety, health, and welfare of the County residents should Data Center Facilities be permitted or constructed, it is in the interest of immediately preserving the public safety, health and welfare to adopt this urgency ordinance extending the previously adopted temporary moratorium. Extending the moratorium will allow the County to, among other related tasks, continue with studying revisions to the Zoning Ordinance and policies that most effectively regulate Data Center Facilities, minimizes the negative effects of such facilities, and allows for adequate review of the proposed revisions pursuant to the California Environmental Quality Act, while continuing to process applications for Data Center Facilities without by-right, but inconsistent Data Center Facilities development occurring; and

13. California Government Code section 65858 allows the County to extend an interim ordinance that temporarily prohibits otherwise allowed uses when those uses conflict with a pending land use study. Such a measure requires public notice pursuant to Government

Code section 65090; a public hearing; a four-fifths (4/5ths) vote of the Board of Supervisors; must contain a finding that there is a current and immediate threat to the public health, safety or welfare; and the initial extension can be no longer than an additional ten (10) months and fifteen (15) days; and

14. The Board finds this urgency ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to Title 14, California Code of Regulations section 15308 because it is a regulatory action taken to protect the environment, and section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment and therefore the activity is not subject to CEQA; and

15. The Board of Supervisors considers it necessary to adopt this urgency interim ordinance to explicitly prohibit Data Center Facilities while the updates to the Zoning Ordinance and other land use regulations are studied and developed.

NOW, THEREFORE, the Board of Supervisors of the County of Imperial ordains as follows:

SECTION II

The Board of Supervisors of the County of Imperial finds and determines the foregoing recitals to be true and correct and hereby makes them part of this ordinance.

SECTION III

The Board of Supervisors of the County of Imperial hereby directs County staff to continue to study and prepare amendments to the County's land use regulations, including consideration of the draft Data Center guidelines where feasible, as well as recommendations from any advisory committee as directed by the Board of Supervisors, for the purpose of regulating Data Center Facilities within the unincorporated areas of the County.

SECTION IV

The uncodified Imperial County Ordinance Code is hereby amended to add the following interim zoning ordinance:

Temporary Prohibition of Data Center Facilities

From and after the date of enactment of the interim ordinance, no use permit, variance, building permit, business license, or any other entitlement for use shall be approved or issued for the establishment, construction, or operation of a Data Center Facility, as defined herein, for any location or property within the unincorporated territory of the County, subject to the exemptions set forth below.

An application for a Data Center Facility may be accepted and processed during the moratorium and any extension of the moratorium. However, the application shall be accepted and processed at the applicant's sole cost and expense and with the understanding that: 1) no permit or entitlement shall be issued until the moratorium, including any extension of the moratorium, has expired; and 2) that no permit or entitlement will be issued if it is inconsistent with any County laws, ordinances, General Plan, or regulations that are amended or adopted by reason of the review that occurs during the moratorium.

For purposes of this ordinance, a Data Center Facility is defined as a "Data center", "Data center yard", or "Data center (within enclosed building)" and generally include buildings or structures that house computer systems designed for the processing and storage of digital information, as well as all accessory buildings, structures, facilities, and/or uses subordinate or ancillary to data centers, including but not limited to backup generators, backup battery energy storage systems, electrical substations, gen-tie lines, water treatment facilities, cooling systems, and transmission lines, when proposed as part of a Data Center Facility.

SECTION V

Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Supervisors declares that it would have adopted this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more section, subsection, sentence, clause or phrase be declared invalid.

SECTION VI

Pursuant to Government Code Section 65858, this measure is declared to be an urgency interim ordinance, to take effect and be in force immediately upon its passage.

The Clerk is directed to publish this ordinance within fifteen (15) days in accordance with Government Code section 25124. The previously adopted urgency interim ordinance is hereby extended an additional ten (10) months and fifteen (15) days, unless otherwise extended by the Board of Supervisors pursuant to Government Code Section 65858.

Adopted by the Board of Supervisors of the County of Imperial, State of California, on the ___ day of July, 2026, by the following called vote:

AYES:

NOES:

ABSTAIN:

ABSENT: