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26-03004

Public Utilities Commission of Nevada
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Filed For: 328CH 8me LLC

In accordance with NRS Chapter 719,
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agent or
representative of the signer(s) and
328CH 8me LLC

BEFORE THE PUBLIC UTILITIES COMMISSION OF NEVADA

IN THE MATTER OF:

Application of 328CH 8me LLC, under the provisions of the Utility Environmental Protection Act, for a permit to construct the Arida 2a Solar Project consisting of a photovoltaic solar electric generating facility, a battery energy storage system, and associated facilities to be located on approximately 1,350 acres of federally-managed land in Clark County, Nevada.

Docket No. 26-03004

MOTION TO MODIFY COMPLIANCE ORDER

328CH 8me LLC (“328CH 8me” or the “Applicant”), by and through its undersigned counsel, respectfully moves the Public Utilities Commission of Nevada (the “Commission”) for modification of the Commission’s May 29, 2026, Order (the “Order”) in Docket No. 26-03004 for the purpose of authorizing the issuance of separate, phase-specific Utility Environmental Protection Act (“UEPA”) permits to construct for discrete phased construction scopes within the approved Arida 2a Solar Project (the “Project”). The requested modification concerns only the timing and compliance mechanism for issuance of the UEPA permit to construct. It does not seek to reopen the Commission’s environmental findings, alter the approved Project footprint or design, or change the mitigation measures incorporated into the Order. Instead, Applicant requests that the Order allow construction of each discrete Project scope to proceed once Staff has verified compliance with all requirements applicable to that scope, without requiring Applicant to first obtain permits applicable only to other scopes of construction.

I. BACKGROUND

On March 4, 2026, 328CH 8me filed its UEPA application seeking authorization to construct the Arida 2a Solar Project, consisting of a photovoltaic solar electric generating facility, a battery energy storage system (“BESS”), and associated facilities on approximately 1,350 acres in Clark County, Nevada. The application explained that the original Arida Solar Project had been divided into two solar projects, Arida 1 and Arida 2a, with Arida 2a comprising the portion

1 addressed in this Docket. The application and its environmental materials describe the Project as
2 including, among other things, a solar field, energy storage system, onsite electrical collection
3 system and substation, site security and fencing, communication systems infrastructure, operations
4 and maintenance facilities, internal project roads, lighting, water supply, wastewater treatment,
5 and associated construction facilities. The supplemental Environmental Statement further
6 describes the Arida 2a footprint as approximately 1,350 acres and depicts the Arida 2a BESS and
7 substation within the approved Arida 2a boundary.

8 On May 29, 2026, the Commission issued the Order granting 328CH 8me's application
9 subject to specified compliance items. The Order accepted and incorporated the findings and
10 conclusions in the Project's Environmental Statement and found that the Project satisfies the
11 applicable UEPA criteria under NRS 704.890. Order ¶ 6. The Order then required 328CH 8me to
12 file, before issuance of the UEPA permit to construct, the following outstanding permits,
13 approvals, and compliance items: (1) Nevada Department of Wildlife ("NDOW") special purpose
14 permit; (2) NDOW energy planning and conservation fund payment; (3) Clark County Board of
15 Commissioners special use permit; (4) Clark County Building Department building permit; (5)
16 Clark County Public Works grading permit; and (6) Clark County Department of Environment
17 and Sustainability - Division of Air Quality construction dust permit. Order ¶ 7. The Order further
18 directs Staff to verify completion of those compliance items and then for the Assistant Secretary
19 of the Commission to then issue the UEPA permit to construct. Order ¶¶ 4-5.

20 The Order's compliance structure appropriately ensures that construction does not begin
21 until the separately required local and state approvals have been obtained and filed with the
22 Commission.

23 The issue addressed by this Motion is narrower: as worded, the Order presently treats the
24 building, grading, and construction dust permits as prerequisites to a single Project-wide UEPA
25 permit, even though those local approvals correspond to different phased construction scopes
26 within Arida 2a. As construction planning has progressed, Applicant has organized the Arida 2a
27 work into discrete phased construction scopes that require separate local approvals and may
28 become ready to proceed on different schedules. Requiring a permit applicable only to a later or

1 separate construction scope to be obtained before an independently permitted scope may begin
2 would create avoidable sequencing delays without adding a corresponding environmental or
3 permitting safeguard. Applicant therefore requests that the Order be modified to allow phase-
4 specific UEPA permits for the Arida 2a construction scopes identified below.

5 **II. MOTION REQUESTING PHASING AND COMPLIANCE STRUCTURE**

6 Applicant requests that the Order be amended to provide a phase-specific compliance
7 structure for seven discrete Arida 2a construction release packages. The project-wide compliance
8 items identified in Order ¶ 7(a)-(c), the NDOW special purpose permit, NDOW energy planning
9 and conservation fund payment, and Clark County Board of Commissioners Special Use Permit,
10 would remain project-wide prerequisites to issuance of the first phase permit, to the extent
11 applicable. The Clark County building, grading, construction dust, and other local approvals would
12 be tied to the particular phased construction scope for which those approvals are required. The
13 Temporary Helipad Special Use Permit identified for Phase A would likewise be filed as a
14 compliance item for that phase; to the extent that approval is the same special use permit identified
15 in Order ¶ 7(c), its filing would satisfy the corresponding Order requirement rather than create a
16 duplicative requirement. Each UEPA phase permit would authorize only the construction scope
17 identified for that phase, which are reflected in the Arida 2a Solar Project Phase Map attached at
18 **Exhibit A**. The phases identify discrete permit-release packages and do not require the
19 Commission to issue them in alphabetical order if construction sequencing or applicable approvals
20 support a different order.

21 The geographic area encompassed by each phased construction release package is
22 identified by the legal description below and as set forth in **Exhibit B**.

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Phase	Construction Scope	Phase-Specific Compliance Before UEPA Phase Permit	Legal Description (Mount Diablo Meridian)
Phase A – Temporary Helipad	Construction and development of the Temporary Helipad.	Helipad Special Use Permit (SUP); Grading Permit; Dust Control Permit.	Township 33S, Range 65E Section 1 – Lot 3, Lot 4, SW ¹ / ₄ NW ¹ / ₄ , SE ¹ / ₄ NW ¹ / ₄
Phase B - Access Preparation	Preparation of access areas, including grading and related site preparation.	Grading Permit; Dust Control Permit.	Township 33S, Range 65 ^E Section 1 – SE ¹ / ₄ NW ¹ / ₄ , NE ¹ / ₄ SW ¹ / ₄ , SE ¹ / ₄ SW ¹ / ₄ , SW ¹ / ₄ SE ¹ / ₄ , SE ¹ / ₄ SE ¹ / ₄ Township 33S, Range 66E Section 6 – SW ¹ / ₄ SW ¹ / ₄ , SE ¹ / ₄ SW ¹ / ₄ , SW ¹ / ₄ SE ¹ / ₄ Section 7 – NE ¹ / ₄ NE ¹ / ₄ , NW ¹ / ₄ NE ¹ / ₄ , NE ¹ / ₄ NW ¹ / ₄ Section 8 – NE ¹ / ₄ NE ¹ / ₄ , NW ¹ / ₄ NE ¹ / ₄ , NE ¹ / ₄ NW ¹ / ₄ , NW ¹ / ₄ NW ¹ / ₄

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Phase	Construction Scope	Phase-Specific Compliance Before UEPA Phase Permit	Legal Description (Mount Diablo Meridian)
Phase C - PV Grading	Grading for the photovoltaic (PV) facilities.	Grading Permit; Dust Control Permit.	Township 33S, Range 65E Section 1 – Lot 1, Lot 2, Lot 3, Lot 4, SW ¹ / ₄ NE ¹ / ₄ , SE ¹ / ₄ NE ¹ / ₄ , SW ¹ / ₄ NW ¹ / ₄ , SE ¹ / ₄ NW ¹ / ₄ , S ¹ / ₂ Section 12 – N ¹ / ₂ Township 33S, Range 66E Section 6 – Lot 2, Lot 3, Lot 4, SW ¹ / ₄ NE ¹ / ₄ , SE ¹ / ₄ NE ¹ / ₄ , SW ¹ / ₄ NW ¹ / ₄ , SE ¹ / ₄ NW ¹ / ₄ , S ¹ / ₂ Section 7 – NE ¹ / ₄ NE ¹ / ₄ , NW ¹ / ₄ NE ¹ / ₄ , SW ¹ / ₄ NE ¹ / ₄ , NW ¹ / ₄

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Phase	Construction Scope	Phase-Specific Compliance Before UEPA Phase Permit	Legal Description (Mount Diablo Meridian)
Phase D - PV Building	Building construction for the photovoltaic (PV) facilities.	Building Permit.	Township 33S, Range 65E Section 1 – Lot 1, Lot 2, Lot 3, Lot 4, SW ¹ / ₄ NE ¹ / ₄ , SE ¹ / ₄ NE ¹ / ₄ , SW ¹ / ₄ NW ¹ / ₄ , SE ¹ / ₄ NW ¹ / ₄ , S ¹ / ₂ Section 12 – N ¹ / ₂ Township 33S, Range 66E Section 6 – Lot 2, Lot 3, Lot 4, SW ¹ / ₄ NE ¹ / ₄ , SE ¹ / ₄ NE ¹ / ₄ , SW ¹ / ₄ NW ¹ / ₄ , SE ¹ / ₄ NW ¹ / ₄ , S ¹ / ₂ Section 7 – NE ¹ / ₄ NE ¹ / ₄ , NW ¹ / ₄ NE ¹ / ₄ , SW ¹ / ₄ NE ¹ / ₄ , NW ¹ / ₄
Phase E - BESS Grading	Grading for the battery energy storage system (BESS).	Grading Permit; Dust Control Permit.	Township 33S, Range 65E Section 1 – Lot 1, Lot 2, SW ¹ / ₄ NE ¹ / ₄ Township 33S, Range 66E Section 6 – Lot 4

Phase	Construction Scope	Phase-Specific Compliance Before UEPA Phase Permit	Legal Description (Mount Diablo Meridian)
Phase F - BESS / Arida 2a Substation Building	Building construction for the BESS and Arida 2a Substation.	BESS - Building Permit; Arida 2a Substation - Building Permit.	Township 33S, Range 65E Section 1 – Lot 1, Lot 2, Lot 3, Lot 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ Township 33S, Range 66E Section 6 – Lot 4
Phase G - Arida 2a Substation Grading	Grading for the Arida 2a Substation.	Grading Permit; Dust Control Permit.	Township 33S, Range 65E Section 1 – Lot 3, Lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$

If a single permit or approval covers more than one phase, filing that permit once should satisfy the corresponding compliance requirement for each covered phase. Conversely, a permit applicable solely to a later phase would not be required as a prerequisite to issuance of a UEPA permit for an earlier or independently ready phase unless that later-phase permit is also required for the work included in the earlier phase. Applicant would remain responsible for obtaining and filing every state and local authorization required by law before commencing the work covered by each phase. No phase permit would authorize work outside the scope identified for that phase.

III. BASIS FOR RELIEF

The requested modification is consistent with the UEPA statutory framework and with the scope of relief originally requested by Applicant. NRS 704.890(1)(e) expressly contemplates that, when the Commission grants a permit, the applicant may be “in the process of obtaining” other permits, licenses, registrations, and approvals required by federal, state, and local law. If those approvals have not been obtained when the Commission acts, NRS 704.890(2) directs that the

1 permit be conditioned upon the applicant obtaining them. NRS 704.8905(2) further authorizes the
2 Commission to grant an application and a permit to construct upon such terms, conditions, or
3 modifications of construction, operation, or maintenance as it deems appropriate. These provisions
4 give the Commission flexibility to structure compliance with outstanding approvals while
5 preserving the requirement that construction proceed only under a Commission-issued UEPA
6 permit.

7 The original March 4, 2026, application contemplated this type of compliance sequencing.
8 In its discussion of required local approvals, the application separately identified the Clark County
9 special use permit, building permit, grading permit, and construction dust permit and provided
10 separate anticipated dates for obtaining those approvals. The application's Conclusion and Request
11 for Relief expressly asked the Commission to grant conditions and modifications that would allow
12 Applicant to file outstanding required permits, licenses, and approvals with the Commission before
13 commencing construction. The requested modification therefore implements the compliance
14 flexibility contemplated by the original filing, while preserving the Commission's oversight
15 through phase-specific UEPA permit issuance.

16 The requested structure also preserves the environmental determinations already made by
17 the Commission. The original Environmental Statement and January 2026 Supplemental
18 Environmental Statement evaluated the Arida Solar Project and the division into Arida 1 and Arida
19 2a. The Supplemental Environmental Statement states that the environmental impacts of the two
20 current projects are the same as those analyzed in the March 2021 Environmental Statement and
21 that the mitigation measures identified in that statement will apply to the two projects. The
22 Commission expressly accepted and incorporated the environmental findings and conclusions in
23 the Environmental Statement when it granted the Arida 2a application. Order ¶ 6(a)-(f). Issuing
24 separate UEPA permits for discrete construction scopes does not change the Project analyzed in
25 those materials, does not alter the mitigation measures, and does not authorize construction beyond
26 the approved Project. The legal descriptions identify the discrete geographic areas within the
27 approved Arida 2a Project that correspond to the seven construction release packages; they do not
28 expand the approved Project boundary or authorize construction outside the approved Project. The

1 phase legal descriptions are geographic boundary descriptions only; they do not enlarge the
2 approved Project boundary or alter the facilities evaluated in the Environmental Statement or
3 Supplemental Environmental Statement.

4 The proposed structure is also consistent with Commission practice. The Commission has
5 previously approved multiple UEPA permits for a single utility project. For example, in Docket
6 No. 24-08009 (Sierra Solar Phase I Project), the Commission's order provided for issuance of six
7 UEPA Permits to Construct for the project upon satisfaction of the required compliance items. *See*
8 Docket No. 24-08009 Order ¶ 9. The requested seven-package structure applies the same principle
9 to Arida 2a: the Commission retains control over when construction may commence, but
10 compliance with an approval applicable only to one construction scope does not unnecessarily
11 delay a different scope that has satisfied the conditions applicable to it. This approach advances
12 the coordination and avoidance-of-duplication principles reflected in NRS 704.877(2).

13 The requested modification also preserves the central protection embodied in the Order and
14 UEPA. NRS 704.865(1) prohibits construction of a utility facility without a Commission permit.
15 Applicant is not asking to commence construction before receiving a UEPA permit. Rather,
16 Applicant asks the Commission to define the unit of construction for which the compliance
17 conditions must be satisfied before the Assistant Commission Secretary issues that permit. No
18 construction within a phase would begin until Staff verifies the applicable compliance items and
19 the Commission issues the corresponding UEPA permit. The public, environmental, and
20 permitting protections of the existing Order therefore remain intact, while unnecessary sequencing
21 delay is avoided.

22 **IV. CONCLUSION**

23 For the foregoing reasons, 328CH 8me respectfully requests that the Commission amend
24 the Order as necessary to:

- 25 1. Authorize separate UEPA permits to construct for the seven Arida 2a phased
26 construction release packages described above, with each phase permit limited to the
27 corresponding geographic area as legally described above and as set forth in **Exhibit**
28 **B**;

- 1 2. Provide that, upon Staff's verification that the project-wide compliance items
2 applicable to the Project and the compliance items applicable to a particular phase have
3 been satisfied, the Assistant Commission Secretary shall issue a UEPA permit to
4 construct for that phase;
- 5 3. Provide that no construction may commence within a phase until the Commission has
6 issued the UEPA permit to construct for that phase, and that the corresponding phase
7 permit authorizes construction only within the geographic area described for that phase;
8 a permit or approval applicable solely to another phase is not a prerequisite to issuance
9 of the phase permit unless it is also required for the work included in that phase;
- 10 4. Provide that a permit or approval covering multiple phases need be filed only once and
11 may be relied upon as compliance for each phase it covers;
- 12 5. Leave unchanged the Commission's findings and conclusions under NRS 704.890, the
13 five-year deadline in paragraph 6 of the Order, all environmental mitigation measures,
14 and all other provisions of the Order except as necessary to implement phase-specific
15 permit issuance for Arida 2a; and
- 16 6. Grant such other and further relief as the Commission deems just and appropriate.

17 Dated this 25th day of September, 2026. FENNEMORE CRAIG, P.C.

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19 By: /s/ Micheline Nadeau Fairbank
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EXHIBIT A

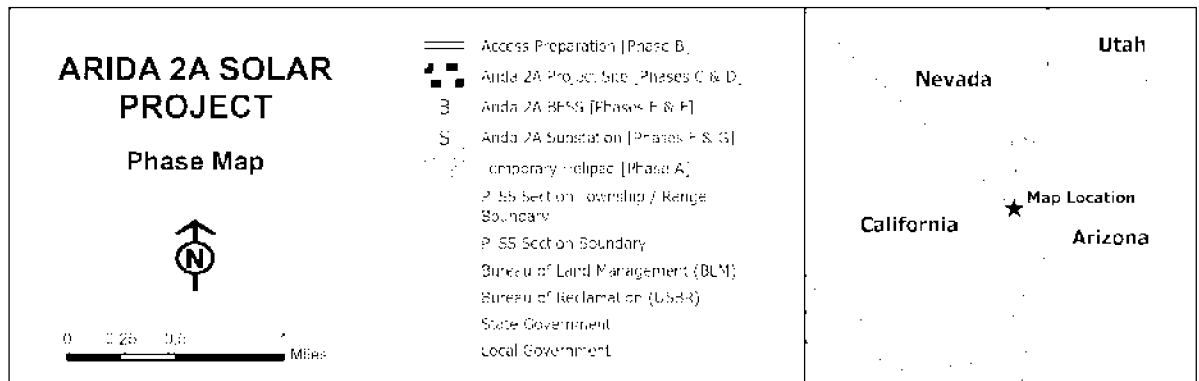
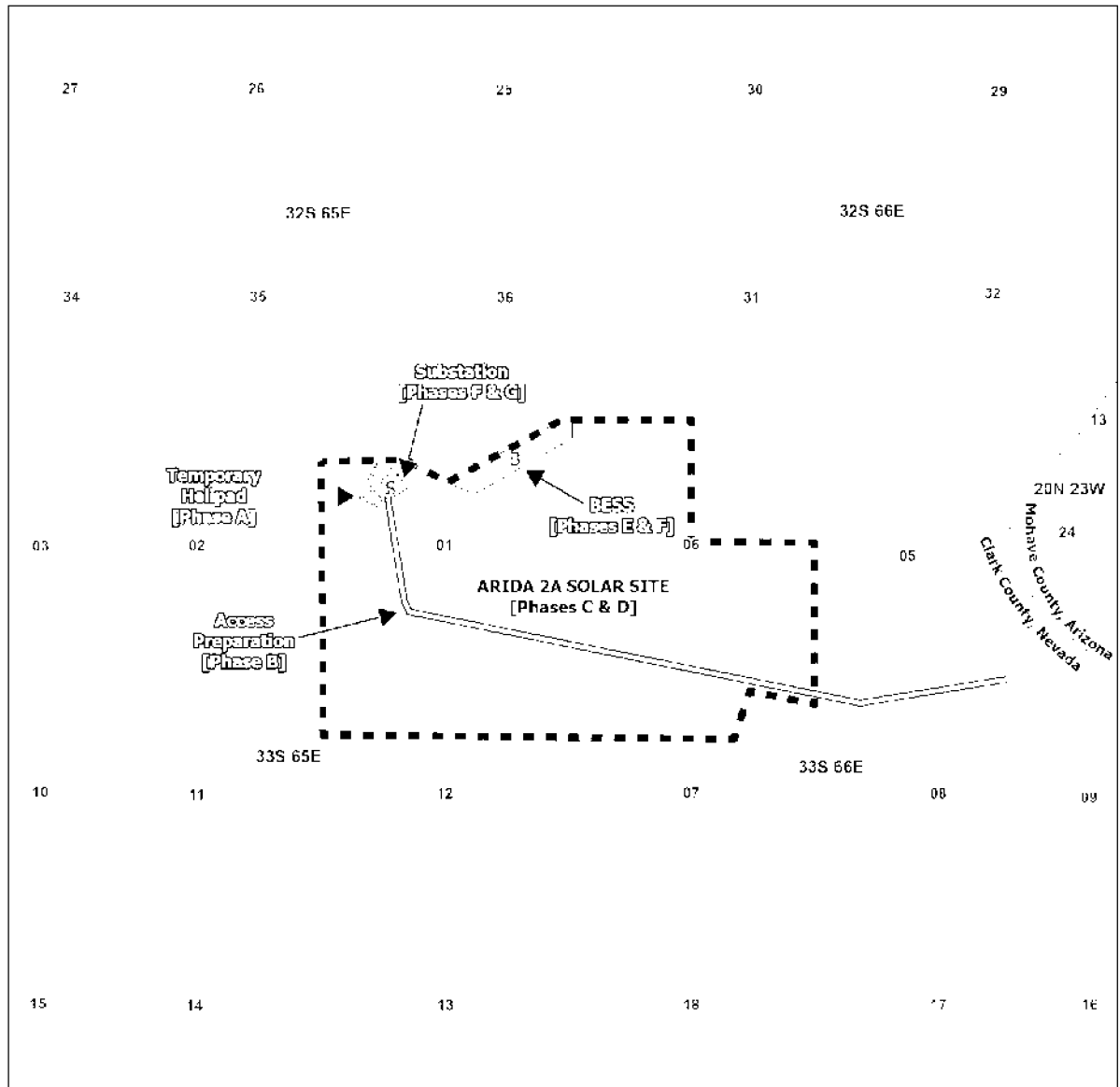


EXHIBIT B

Arida 2a Phased Construction Scopes Legal Descriptions

Phase	Legal Description (Mount Diablo Base & Meridian)
Temporary Helipad [Phase A]	Township 33S, Range 65E Section 1 – Lot 3, Lot 4, SW$\frac{1}{4}$NW$\frac{1}{4}$, SE$\frac{1}{4}$NW$\frac{1}{4}$
Access Preparation [Phase B]	Township 33S, Range 65E - Section 1 – SE$\frac{1}{4}$NW$\frac{1}{4}$, NE$\frac{1}{4}$SW$\frac{1}{4}$, SE$\frac{1}{4}$SW$\frac{1}{4}$, SW$\frac{1}{4}$SE$\frac{1}{4}$, SE$\frac{1}{4}$SE$\frac{1}{4}$ Township 33S, Range 66E - Section 6 – SW$\frac{1}{4}$SW$\frac{1}{4}$, SE$\frac{1}{4}$SW$\frac{1}{4}$, SW$\frac{1}{4}$SE$\frac{1}{4}$ - Section 7 – NE$\frac{1}{4}$NE$\frac{1}{4}$, NW$\frac{1}{4}$NE$\frac{1}{4}$, NE$\frac{1}{4}$NW$\frac{1}{4}$ - Section 8 – NE$\frac{1}{4}$NE$\frac{1}{4}$, NW$\frac{1}{4}$NE$\frac{1}{4}$, NE$\frac{1}{4}$NW$\frac{1}{4}$, NW$\frac{1}{4}$NW$\frac{1}{4}$
Arida 2a Solar Site [Phases C & D]	Township 33S, Range 65E - Section 1 – Lot 1, Lot 2, Lot 3, Lot 4, SW$\frac{1}{4}$NE$\frac{1}{4}$, SE$\frac{1}{4}$NE$\frac{1}{4}$, SW$\frac{1}{4}$NW$\frac{1}{4}$, SE$\frac{1}{4}$NW$\frac{1}{4}$, S$\frac{1}{2}$ - Section 12 – N$\frac{1}{2}$ Township 33S, Range 66E - Section 6 – Lot 2, Lot 3, Lot 4, SW$\frac{1}{4}$NE$\frac{1}{4}$, SE$\frac{1}{4}$NE$\frac{1}{4}$, SW$\frac{1}{4}$NW$\frac{1}{4}$, SE$\frac{1}{4}$NW$\frac{1}{4}$, S$\frac{1}{2}$ - Section 7 – NE$\frac{1}{4}$NE$\frac{1}{4}$, NW$\frac{1}{4}$NE$\frac{1}{4}$, SW$\frac{1}{4}$NE$\frac{1}{4}$, NW$\frac{1}{4}$
Arida 2a BESS [Phases E & F]	Township 33S, Range 65E - Section 1 – Lot 1, Lot 2, SW$\frac{1}{4}$NE$\frac{1}{4}$ Township 33S, Range 66E - Section 6 – Lot 4
Arida 2a Substation [Phases F & G]	Township 33S, Range 65E Section 1 – Lot 3, Lot 4, SW$\frac{1}{4}$NW$\frac{1}{4}$, SE$\frac{1}{4}$NW$\frac{1}{4}$

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Fennemore Craig, P.C., and on September 25, 2026, I caused to be served a true and correct copy of this **MOTION TO MODIFY COMPLIANCE ORDER**, via Electronic Mail, or as indicated below, on the following parties:

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Dated this 25th day of September, 2026.

/s/ Gina G. Zayat
An Employee of Fennemore Craig, P.C.