

DOCKETED

Docket Number:	79-AFC-03C
Project Title:	Compliance - Application for Certification of PG&E Geysers Unit 18
TN #:	240678
Document Title:	Application for Confidential Designation
Description:	N/A
Filer:	Deric Wittenborn
Organization:	Ellison Schneider Harris & Donlan LLP
Submitter Role:	Applicant Representative
Submission Date:	11/22/2021 11:51:34 AM
Docketed Date:	11/22/2021



November 19, 2021

Submitted via e-filing

Drew Bohan
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: Application for Confidential Designation
Geysers Unit 3, Sonoma (80-AFC-1C)
Geysers Unit 16, Quicksilver (79-AFC-5C)
Geysers Unit 17, Lakeview (79-AFC-1C)
Geysers Unit 18, Socrates (79-AFC-3C)
Geysers Unit 19, Calistoga (81-AFC-1C)
Geysers Unit 20, Grant (82-AFC-1C)

Dear Mr. Bohan:

Pursuant to Sections 2501 *et seq.*, of Title 20 of the California Code of Regulations, Geysers Power Company, LLC, the project owner of the above-listed Commission certified projects (the “Applicant” or “GPC”), hereby submits this *Application for Confidential Designation* for certain detailed information relating to the recommissioning and inspection of the fire protection systems for the above listed GPC power plants (the “Projects”).

Please feel free to contact us at (916) 447-2166 should you have any questions or require additional information. Thank you.

Sincerely,

Chase K. Maxwell
Ellison Schneider Harris & Donlan LLP

Attorneys for Geysers Power Company, LLC

**GEYSERS POWER COMPANY, LLC
APPLICATION FOR CONFIDENTIAL DESIGNATION**

**Geysers Unit 3, Sonoma (80-AFC-1C)
Geysers Unit 16, Quicksilver (79-AFC-5C)
Geysers Unit 17, Lakeview (79-AFC-1C)
Geysers Unit 18, Socrates (79-AFC-3C)
Geysers Unit 19, Calistoga (81-AFC-1C)
Geysers Unit 20, Grant (82-AFC-1C)**

1. *Specifically indicate those parts of the record which should be kept confidential.*
- a. Title, date, and description (including number of pages) of the information or data for which you request confidential designation.*

Geysers Power Company, LLC (the “Applicant” or “GPC”) seeks confidential designation for documents detailing the design and conditions of the fire protection systems (“FPS”) at the six California Energy Commission (“Commission”) jurisdictional geothermal power plants referenced above, hereinafter the “Projects.”

Pursuant to the Settlement Agreement and Release between the Commission and GPC, which was approved at the Commission’s November 16, 2020 meeting, the Final Decisions for the Projects were collectively amended and augmented with new terms and conditions provided as Exhibit A to the Settlement Agreement and Release (“New Conditions”).¹ These New Conditions require GPC to periodically submit information to the Energy Commission detailing the ongoing recommissioning and the present conditions of the fire protection and fire alarm systems at the Projects. Consistent with the New Conditions, GPC has worked, and will continue to work, cooperatively with Commission staff to provide monthly updates on the actions taken and planned to recommission the Projects’ fire protection and prevention systems.

With this application, GPC requests confidential designation for the records listed in the table below, which are referred to hereafter as the *Confidential FPS Information*.

Title	Date	Description	# of Pages
October 2021 Monthly Recommissioning Report for Geysers Power Company, LLC plants: Geysers Unit 3, Sonoma (80-AFC-01C); Geysers Unit 17, Lake View (79-AFC-01C); Geysers Unit 18, Socrates (79-AFC-03C); Geysers Unit 19, Calistoga (81-	Nov. 10, 2021	Confidential Appendix A to the monthly report details ongoing FPS maintenance and construction activities at the Projects.	2

¹ On May 25, 2018, GPC previously submitted an application for confidential designation for records associated with the fire protection and suppression systems.

Title	Date	Description	# of Pages
AFC-01C); and Geysers Unit 20, Grant (82-AFC-01C), CONFIDENTIAL APPENDIX A			
October 2021 Monthly Recommissioning Report for Geysers Power Company, LLC plants: Geysers Unit 3, Sonoma (80-AFC-01C); Geysers Unit 17, Lake View (79-AFC-01C); Geysers Unit 18, Socrates (79-AFC-03C); Geysers Unit 19, Calistoga (81-AFC-01C); and Geysers Unit 20, Grant (82-AFC-01C), CONFIDENTIAL APPENDIX B	Nov. 10, 2021	Confidential Appendix B to the monthly report provides the Fire System Recommissioning schedule for these tasks at the Projects.	2
Letter to Eric Veerkamp from Chase K. Maxwell, Re: Fire Protection-4 Submittal of Q3 2021 ITM Reports, Geysers Power Company LLC plants: Geysers Unit 3, Sonoma (80-AFC- 01C); Geysers Unit 16, Quicksilver (79-AFC-05C); Geysers Unit 17, Lake View (79-AFC-01C); Geysers Unit 18, Socrates (79-AFC-03C); Geysers Unit 19, Calistoga (81-AFC-01C); and Geysers Unit 20, Grant (82-AFC-01C)	Nov. 12, 2021	The letter provides corrective actions for findings in the concurrently submitted Inspection, Testing and Maintenance (“ITM”) reports and alarm inspection reports conducted during the third quarter of 2021.	4
Fire Alarm and Life Safety System Inspection Certificate for Calpine 10350 (Sonoma) Unit 3	Aug.30, 2021*	The document reports results of the inspection and provides other details regarding the location and features of the fire alarm and life safety system	27
Deluge Sprinkler Systems Water Spray Quarterly and Annual Report for Calpine 10350 (Sonoma) Unit 3	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	4
Pre-Action Fire Sprinkler System Quarterly and Annual Report for Calpine 10350 (Sonoma) Unit 3	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	3
Wet Pipe Fire Sprinkler System	Aug. 25,	The document reports results of	3

Title	Date	Description	# of Pages
Quarterly and Annual Report for Calpine 10350 (Sonoma) Unit 3	2021*	the third quarter inspection and provides other details regarding the location and features of the FPS.	
Fire Alarm and Life Safety System Inspection Certificate for Calpine 10350 (Quicksilver) Unit 16	Aug. 26, 2021*	The document reports results of the inspection and provides other details regarding the location and features of the fire alarm and life safety system.	10
Deluge Sprinkler Systems Water Spray Quarterly and Annual Report for Calpine 10350 (Quicksilver) Unit 16	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	4
Wet Pipe Fire Sprinkler System Quarterly and Annual Report for Calpine 10350 (Quicksilver) Unit 16	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	3
Fire Alarm and Life Safety System Inspection Certificate for Calpine 10350 (Lakeview) Unit 17	Aug. 27, 2021*	The document reports results of the inspection and provides other details regarding the location and features of the fire alarm and life safety system.	11
Deluge Sprinkler Systems Water Spray Quarterly and Annual Report for Calpine 10350 (Lakeview) Unit 17	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	4
Wet Pipe Fire Sprinkler System Quarterly and Annual Report for Calpine 10350 (Lakeview) Unit 17	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	3
Fire Alarm and Life Safety System Inspection Certificate for Calpine 10350 (Socrates) Unit 18	Aug. 31, 2021*	The document reports results of the inspection and provides other details regarding the location and features of the fire alarm and life safety system.	10
Deluge Sprinkler Systems Water Spray Quarterly and Annual Report for Calpine 10350 (Socrates) Unit 18	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the	5

Title	Date	Description	# of Pages
		FPS.	
Wet Pipe Fire Sprinkler System Quarterly and Annual Report for Calpine 10350 (Socrates) Unit 18	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	3
Fire Alarm and Life Safety System Inspection Certificate for Calpine 10350 (Calistoga) Unit 19	Aug. 23, 2021*	The document reports results of the inspection and provides other details regarding the location and features of the fire alarm and life safety system.	36
Deluge Sprinkler Systems Water Spray Quarterly and Annual Report for Calpine 10350 (Calistoga) Unit 19	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	4
Dry Pipe Fire Sprinkler System Quarterly and Annual Report for Calpine 10350 (Calistoga) Unit 19	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	3
Pre-Action Fire Sprinkler System Quarterly and Annual Report for Calpine 10350 (Calistoga) Unit 19	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	3
Fire Alarm and Life Safety System Inspection Certificate for Calpine 10350 (Grant) Unit 20	Aug. 31, 2021*	The document reports results of the inspection and provides other details regarding the location and features of the fire alarm and life safety system.	10
Deluge Sprinkler Systems Water Spray Quarterly and Annual Report for Calpine 10350 (Grant) Unit 20	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	4
Wet Pipe Fire Sprinkler System Quarterly and Annual Report for Calpine 10350 (Grant) Unit 20	Aug. 25, 2021*	The document reports results of the third quarter inspection and provides other details regarding the location and features of the FPS.	3
Basis of Design Narrative and Re-commissioning Plan for Grant (Unit	Oct. 21, 2021	This document summarizes the Basis of Design of the Fire	Approximately

Title	Date	Description	# of Pages
20), and the exhibits and appendices thereto		Protection and Life Safety Systems designed to protect Grant (Unit 20) and outlines a Recommissioning Plan developed to confirm and verify that the systems performance continues to GPC's requirements and basis of design.	130
*The document dates reflect the date of the inspection provided in the reports, and does not indicate the date that these reports were made available to GPC by the inspector.			

If this Application for Confidential Designation is granted, GPC intends to seek confidential designation going forward for the following categories of records, which GPC considers substantially similar to those records listed above, under the rule for Repeated Applications for Confidential Designation provided in Title 20, Sec. 2505 (a)(4). GPC expects these repeated confidential compliance submissions to include the following categories of documents:

- Appendix A to the monthly FPS recommissioning reports, which details ongoing FPS maintenance and construction activities at the Projects;
- Appendix B to the monthly recommissioning reports, which provides a detailed schedule of the FPS recommissioning tasks at the Projects;
- Fire Protection System Inspection, Testing and Maintenance (“ITM”) Reports, which may include, but may not be limited to, the following: fire alarm and life safety inspection certificates; deluge sprinkler systems water spray reports; dry-pipe fire sprinkler system reports; pre-action fire sprinkler system reports; and wet pipe fire sprinkler system reports;
- Letters identifying any deficiencies or failures from the ITM Reports and the associated corrective items;
- Draft Basis of Design Narratives;
- Final Basis of Design Narratives;
- Draft Recommissioning Plans; and
- Final Recommissioning Plans.

b. Parts of the information or data for which you request confidential designation.

The *Confidential FPS Information* should be kept confidential in their entirety.

2. *State the length of time the record should be kept confidential, and provide justification for the length of time.*

The *Confidential FPS Information* should be held confidential for the life of the Projects to protect the information contained therein.

3. *Cite and discuss:*

- (a) *the provisions of the Public Records Act or other law that allow the Commission to keep the information or data confidential, and explain why the provision applies to the material; and*
- (b) *the public interest in nondisclosure of the material submitted for confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.*

The *Confidential FPS Information* should be kept confidential for the following reasons.

First, the Public Records Act broadly exempts corporate proprietary information, including trade secrets, from public disclosure. (Gov't Code §§ 6254.7(d), 6254.15.) Trade secrets include "any formula, plan, ... production data, or compilation of information ..., which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service ... and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it." (Gov't Code §§ 6254.7(d), 6254.15.) The California Civil Code Section 3426.1(d) defines a "trade secret" as follows:

- (d) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:
 - (1) Derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use; and
 - (2) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The *Confidential FPS Information* contains compilations of information related to the specific technologies employed at the Projects, including the design and location of certain fire protection system components, diagrams and drawings of the FPS plans for the Projects, and other commercially valuable information related to the geothermal facilities' operations and schematics. Such information constitutes trade secrets as the Applicant has made significant efforts and investments in the plant-specific updated Basis of Design for the FPS and the recommissioning plans. The *Confidential FPS Information* also has independent economic value as GPC uses this information for asset protection purposes.

In addition to concerns regarding the value of this information to competitors in the renewable

energy supply market, GPC purchases equipment for the FPS and retains the services of consultants and contractors to conduct work associated with the recommissioning, to inspect the FPS, and to carry out any ITM corrective actions. Public disclosure of the information in the *Confidential FPS Information* could place GPC at a pricing disadvantage where the totality of the Basis of Designs, Recommission Plans, the schedule of the FPS recommissioning efforts, or other information in the *Confidential FPS Information* is public and available to potential vendors of equipment and providers of fire protection system services.

Thus, the *Confidential FPS Information* has independent economic value from not being generally known to the public, including GPC's competitors and vendors, that could obtain economic value from the disclosure or use of the *Confidential FPS Information*.

Second, the Public Record Act provides a specific exclusion from disclosure where "...on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (Gov't Code § 6255(a).) In this case, the public interest in protecting the records associated with the fire protection systems for the Projects arises from preventing possible vandalism, tampering, or other attacks by persons or parties that could be facilitated by public disclosure of the details of the fire protection systems. Attacks on energy infrastructure are a real, contemporary threat. In the case of the *Confidential FPS Information*, the public interest is best served by nondisclosure when considering the potential security concerns that could arise where detailed power plant fire protection information is made public. Furthermore, the fire protection systems are located at private, secure facilities that are closed to the public, so there is little public interest in disclosing such site-specific information on these systems.

Third, the Public Records Act protects from disclosure "Records, the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege. (Gov. C. 6254(k).) Therefore, where a record is protected from disclosure under the Freedom of Information Act ("FOIA"), it must be protected from disclosure under the Public Records Act.

California Government Code Section 6254 (ab), in pertinent part, excludes from disclosure, "Critical infrastructure information ["CII"], as defined in Section 131(3) of Title 6 of the United States Code, that is voluntarily submitted to the Office of Emergency Services for use by that office, including the identity of the person who or entity that voluntarily submitted the information.* * *" Both the Department of Homeland Security ("DHS") and the Federal Energy Regulatory Commission ("FERC") have processes for this exemption. Similarly, FERC protects Critical Energy Infrastructure Information ("CEII") through an application for protection from FOIA disclosure.

The *Confidential FPS Information* is similar to the type of information subject to collection by either DHS or FERC. While there has been no occasion to date for the Applicants to seek CII or CEII designation for the *Confidential FPS Information*, if either agency were to make such a request, the Applicants would avail themselves of these federal agencies' processes to protect the sensitive fire protection-related information for disclosure under FOIA.

4. *State whether the information or data can be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.*


GPC carefully considered whether it would be possible to aggregate or mask the information. Given the specific details and circumstances analyzed in the *Confidential FPS Information*, no feasible method of aggregating or masking the information could be identified that would not either disclose the information or render the information provided useless.

5. *State how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances. If it has, explain the circumstances under which disclosure occurred.*

GPC has not disclosed any of the subject information to anyone other than the California Energy Commission staff and other federal, state, and local governmental entities with regulatory authority over the Projects, and GPC's employees, attorneys and consultants working on behalf of the Projects on matters related to the fire protection systems. Moreover, this information has not been disclosed to persons employed by, or working for, GPC except on a confidential, "need-to-know" basis.

I certify under penalty of perjury that the information contained in this Application for Confidential Designation is true, correct, and complete to the best of my knowledge and belief. I am authorized to make this Application and Certification on behalf of the Applicants.

Dated: November 19, 2021



By: _____

Chase K. Maxwell
Ellison Schneider Harris & Donlan LLP

Attorneys for Geysers Power Company, LLC