

**DOCKETED**

<b>Docket Number:</b>	23-AFC-02
<b>Project Title:</b>	Elmore North Geothermal Project (ENGP)
<b>TN #:</b>	251352
<b>Document Title:</b>	CEC's Response Letter re June 20, 2023 Application for Confidentiality
<b>Description:</b>	N/A
<b>Filer:</b>	Ngoc Tran
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
<b>Submission Date:</b>	7/28/2023 9:07:17 AM
<b>Docketed Date:</b>	7/28/2023



July 28, 2023

**Via Email**

Samantha Neumyer  
Ellison Schneider Harris & Donlan, LLP  
2600 Capitol Ave, Suite 400  
Sacramento, California  
[sgn@eslawfirm.com](mailto:sgn@eslawfirm.com)

**Application for Confidential Designation  
Elmore North Geothermal Project  
Docket No. 23-AFC-02**

Dear Samantha Neumyer:

The California Energy Commission (CEC) has received Elmore North Geothermal Project's (applicant) Repeated Application for Confidentiality, dated June 20, 2023 (TN 250684) concerning the following records:

- 1) Figure DA 5.2-1a Distribution and occupancy of Yuma Ridgway's rails within proposed geothermal development areas in Imperial Valley, California
- 2) Figure DA 5.2-1c Desert Pupfish Habitat

The repeated application asserts that substantially similar documents were previously designated as confidential on May 5, 2023, referencing document TN 250014. The referenced May 5, 2023, letter granted an application for confidentiality filed in the Black Rock Geothermal Project docket, 23-AFC-03. This reference has been confirmed to be a typographical error, and reference was intended to be to the May 1, 2023, letter in the Elmore North Geothermal Project Docket (TN 249983). The applicant further states under penalty of perjury that the information contained in Figure DA 5.2-1a and Figure DA 5.2c is "substantially similar to the previously submitted information and that all facts and circumstances relevant to confidentiality remain unchanged."

California Code of Regulations, title 20, section 2505(a)(4) states, "If an applicant is seeking a confidential designation for information that is substantially similar to information that was previously deemed confidential by the Commission pursuant to Section 2508, or for which an application for confidential designation was granted by the executive director pursuant to subdivision (a)(3)(A) of this section, the new application need contain only a certification, executed under penalty of perjury, stating that the information submitted is substantially similar to the previously submitted

information and that all the facts and circumstances relevant to confidentiality remain unchanged. An application meeting these criteria will be approved.”

**Report titled, *Distribution and Occupancy of Yuma Ridgway’s rails within Proposed Geothermal Development Areas in Imperial Valley, California***

This report contains an analysis of the Yuma Ridgway’s rails along with eight figures comprising various maps. The applicant identifies California Code of Regulations section 2505(a)(4) “Repeated Application” as the basis for confidentiality. The application also notes that a public version of the biological resource’s maps was filed into the proceeding’s docket.

**Executive Director’s Determination**

This report is not substantially similar to information previously deemed confidential by the CEC in response letter TN 249983, dated May 1, 2023, docket No. 23-AFC-02. However, CEC biological resources staff reviewed the report and found that the report does not present a threat to biological resources because the location information is not of sufficient detail to allow one to locate sensitive resources. With regards to the eight maps contained in the report labeled Figures 1-8, staff did find that Figures 6 and 8 contain maps of sufficient detail to potentially locate Yuma Ridgway’s rails, a special status species. Therefore, the application for confidentiality is denied as to the report except for Figures 6 and 8. A redacted report with Figures 6 and 8 removed will be docketed by staff with the maps maintained as confidential indefinitely.

**DA 5.2-1c Desert Pupfish Habitat**

This figure contains a one-page map showing the various waterways in which the Desert Pupfish has been identified. The applicant has attested under penalty of perjury that the information contained in the application is substantially similar to information previously deemed confidential by the CEC under section 2505(a)(3)(A) and that all the facts and circumstances relevant to confidentiality remain unchanged. The previous application was granted May 1, 2023, in response letter TN 249583, docket No. 23-AFC-02.

**Executive Director’s Determination**

This map is not substantially similar to information previously deemed confidential by the CEC in response letter TN 249983, dated May 1, 2023, docket No. 23-AFC-02. The May 1, 2023, letter granted an application for confidentiality for several documents, none of which are related to the desert pupfish. CEC biological resources staff has reviewed Figure DA 5.2-1c and consulted with the California Department of Fish and Wildlife (CDFW) regarding this map. Based on review of the map and consultation with CDFW, CEC staff determined that public disclosure of the map would not present a risk to biological resources on and near the project site at the map’s scale and it is appropriate to publicly release the map. Therefore, the application for confidentiality is denied and staff will docket the map.

Be advised that under the California Code of Regulations, title 20, section 2506, one may petition to inspect or copy records that the CEC has designated as confidential. A decision on a petition to inspect or copy records is issued by the CEC's chief counsel. Under the California Code of Regulations, title 20, section 2507, the executive director may disclose, or release records previously designated as confidential in certain circumstances. The procedures for acting on a petition and criteria for disclosing or releasing records previously designated as confidential are set in the California Code of Regulations, title 20, sections 2506 to 2507.

If you have questions, please email [confidentialityapplication@energy.ca.gov](mailto:confidentialityapplication@energy.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Drew Bohan', with a long horizontal stroke extending to the right.

Drew Bohan  
Executive Director