

DOCKETED

Docket Number:	23-AFC-01
Project Title:	Morton Bay Geothermal Project (MBGP)
TN #:	252493
Document Title:	Data Requests Set 2 for Morton Bay Geothermal Project
Description:	N/A
Filer:	Marichka Haws
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	10/3/2023 11:11:53 AM
Docketed Date:	10/3/2023



October 3, 2023

Jon Trujillo
GM, Geothermal Development
BHE Renewables
74-710, CA-111, # 102
Palm Desert, California 92260

Data Requests Set 2 for Morton Bay Geothermal Project (23-AFC-01)

Dear Jon Trujillo:

Pursuant to Title 20, California Code of Regulations, section 1716, California Energy Commission (CEC) staff is asking for the information specified in the enclosed Data Requests Set 2, which is necessary for a complete staff analysis of the Morton Bay Geothermal Project under the Warren-Alquist Act and California Environmental Quality Act.

Responses to the data requests are due to CEC staff within 30 days. If you are unable to provide the information requested, need additional time, or object to providing the requested information, please send written notice to me and the Morton Bay Geothermal Project AFC Committee within 20 days of receipt of this letter. Such written notification must contain the reasons for not providing the information, the need for additional time, or the grounds for any objections (see Title 20, California Code of Regulations, section 1716 (f)).

If you have any questions, please email me at eric.veerkamp@energy.ca.gov.

_____/S/_____

Eric Veerkamp
Project Manager

Enclosure: Data Requests Set 2

MBGP DATA REQUESTS SET 2

CULTURAL AND TRIBAL CULTURAL RESOURCES

Author: Cameron Travis

BACKGROUND: FEDERAL FUNDING FOR THE PROJECT

The Black Rock Geothermal Project (BRGP), which shares several project elements with the Morton Bay Geothermal Project (MBGP), states that “the Black Rock Geothermal Project may receive federal funding, the federal agency issuing the funds may need to conduct a NEPA [National Environmental Policy Act] analysis.” (Jacobs 2023a, page 5.8-10.) However, the MBGP does not include this same language and it is unclear if the BRGP may receive federal funding for project elements shared with the MBGP.

DATA REQUESTS

1. Is the proposed MBGP funded in whole or in part by one or more federal agencies?
 - a. If the proposed MBGP has federal funding, please identify the funding agencies, contact information for federal personnel, and the status of federal environmental impact assessment.
2. Does the proposed MBGP require any federal entitlements, leases, or permits, or is it on federal lands? If so, please describe the federal obligation(s) on the proposed MBGP.
3. Would the BRGP or the Elmore North Geothermal Project receive any federal funds for any project elements shared with the MBGP? If so, please identify the funding agencies, contact information for federal personnel, and the status of federal environmental impact assessment.

BACKGROUND: CITATION CORRECTION

In section 6.2.2 of Appendix 5.3A the following statement includes a citation error: “The archaeological study area is composed of agricultural fields, human-made ponds, a riparian landscape adjacent to the Alamo River, and mud flats (Error! Reference source not found. to Error! Reference source not found.).” (Jacobs 2023b, page 44.)

DATA REQUEST

4. Please provide a correction for this citation.

REFERENCES CITED

Jacobs 2023a – Jacobs (TN 249752). Black Rock Geothermal Project Application for Certification, Volume 1, dated April 18, 2023. Available online at:
<https://efiling.energy.ca.gov/Lists/DocketLog.aspx?docketnumber=23-AFC-03>

Jacobs 2023b – Jacobs (TN 249724). Cultural Resources Technical Report for the BHE Morton Bay Project, Imperial County, California, dated April 5, 2023. Available online at:

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<https://efiling.energy.ca.gov/GetDocument.aspx?tn=249724&DocumentContentId=84365>

LAND USE

Author: Andrea Koch

BACKGROUND: AGRICULTURAL LAND USES

The application states in Sections 5.6.1.3 and 5.11.1.4.1 that portions of the project are located on Farmland of Statewide Importance, including the Imperial Irrigation District (IID) switching station, parts of the gen-tie line, and associated temporary work areas, laydown yards, construction camps, and borrow sites. Disturbance at the laydown yards, construction camps, and borrow sites would be temporary, as these sites would be restored back to pre-construction conditions or conditions specified by the landowner after construction. However, disturbance at the IID and along the associated gen tie line would be permanent, with conversion of approximately 6.25 acres of Farmland of Statewide Importance to non-agricultural uses.

DATA REQUESTS

5. Please describe current land uses at the sites that would be permanently converted from Farmland of Statewide Importance (IID switching station, gen-tie line). If currently or recently used for agriculture, please discuss the crops currently and/or recently farmed.

6. Please describe current land uses at the sites where Farmland of Statewide Importance would be temporarily disturbed (temporary work areas, laydown yards, construction camps, and borrow sites). If currently or recently used for agriculture, please discuss the crops currently and/or recently farmed.

BACKGROUND: AGRICULTURAL MITIGATION

The application states in Section 5.11.2.3.1 that there would be less-than-significant impacts to agriculture based on the small amount of land that would be permanently converted. Section 5.11.4.3 of the application states that no mitigation would be required, although Section 5.11.4.2 notes that Imperial County has established agricultural mitigation measures based on guidance received from the Department of Conservation Division of Land Resource Protection. CEC staff notes that Imperial County's full list of mitigation measures for renewable energy project agricultural impacts can be found in the Final Programmatic Environmental Impact Report for the Imperial County Renewable Energy and Transmission Element Update, at the link below:

<https://www.icpds.com/assets/planning/cec-alternative-energy-update/reports-and-documents/21-feir-cec-renewable-energy-mmpr.pdf>

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CEC staff notes that mitigation would be required, even for a small conversion of agricultural land. Although Imperial County's established mitigation measures can help to partially reduce impacts to agriculture, recent CEQA case law has established that the only way to completely mitigate the loss of agricultural land to less-than-significant is to add new farmland in at least the same quantity as the farmland converted. Simply preserving farmland that already exists offsite, while helpful for partial mitigation, is inadequate to support a finding that the impacts of the loss to farmland proposed by the project are less than significant. (See *King & Gardiner Farms, LLC v. County of Kern*, (2020) 45 Cal.App.5th 814, 875.) Adding new farmland may consist of taking farmland previously developed and converting it back to farmland uses. If new farmland in a 1:1 ratio is not added, this project could possibly result in significant impacts to agriculture, which would require the CEC to adopt a statement of overriding considerations, if approved.

DATA REQUESTS

7. Please identify the specific Imperial County agricultural mitigation option(s) that the project applicant will pursue, if known, and ensure that these options are consistent with those listed in the Final Programmatic Environmental Impact Report for the Imperial County Renewable Energy and Transmission Element Update.
8. Please demonstrate how, if possible, the project's mitigation measures for loss of agricultural land would create *new* farmland equal to or greater than the amount of farmland converted as part of the project. If it is not possible to create new farmland, please explain why.

WATER RESOURCES

Authors: James Ackerman and Adam White

BACKGROUND: GEOTHERMAL UIC PERMIT REQUIREMENTS

Per regulation (CCR Title 20, Section 2010, Appendix B, [14] [A] [A] [iv]) all information required to apply for Underground Injection Control (UIC) permits shall be included in the application. Seven Class V injection wells are proposed to inject geothermal fluids. The California Geologic Energy Management Division (CalGEM) would administer the UIC program for these wells.

DATA REQUESTS

9. To allow environmental review of the potential impacts of the whole of the project, please provide preliminary information used for planning injection well installation, as follows.
 - Known properties of the injection reservoir
 - Well diagram of proposed injection wells
 - Contour map of the top of the intended injection zone

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- Cross-section showing injection wells and the injection and overlying formations
10. Please provide the following items in compliance with CalGEM UIC regulation (CCR Title 14, Section 1961) as part of the UIC project application or when available.
- Injection reservoir conditions
 - Method of injection
 - Map showing contours on the geologic marker at or near the intended injection zone
 - One or more cross-sections showing the wells involved