

**DOCKETED**

<b>Docket Number:</b>	23-AFC-03
<b>Project Title:</b>	Black Rock Geothermal Project (BRGP)
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<b>Document Title:</b>	Data Requests Set 2 BRGP
<b>Description:</b>	Data Requests Set 2 for Black Rock Geothermal Project
<b>Filer:</b>	susan fleming
<b>Organization:</b>	California Energy Commission
<b>Submitter Role:</b>	Commission Staff
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October 5, 2023

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

**Data Requests Set 2 for Black Rock Geothermal Project (23-AFC-03)**

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 Black Rock Geothermal Project under the Warren-Alquist Act and California Environmental Quality Act.

Responses to the data requests are due to 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 Black Rock 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](mailto:eric.veerkamp@energy.ca.gov).

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Eric Veerkamp  
Project Manager

Enclosure: Data Requests Set 2

**ENGP  
DATA REQUESTS SET 2**

**CULTURAL AND TRIBAL CULTURAL RESOURCES – SET 2**

**Authors: Gabriel Roark**

**BACKGROUND: FEDERAL FUNDING FOR THE PROJECT**

The Black Rock Geothermal Project (BRGP) AFC states that the project might receive federal funding: “The National Environmental Policy Act of 1969 (USC, Section 4321 et seq.; 40 Code of Federal Regulations Section 1502.25), as amended, requires analysis of potential environmental impacts to important historic, cultural, and natural aspects of our national heritage. Because the Black Rock Geothermal Project may receive federal funding, the federal agency issuing the funds may need to conduct a NEPA analysis.” (Jacobs 2023a, page 5.8-10.)

**DATA REQUESTS**

1. Is the proposed BRGP funded in whole or in part by one or more federal agencies?
  - a. If the proposed BRGP has federal funding, please identify the funding agencies, contact information for federal personnel, and the status of federal environmental impact assessment.
2. If the applicant anticipates receiving funding for the proposed BRGP, please provide the information requested in the previous data request.
3. Does the proposed BRGP require any federal entitlements, leases, or permits, or is it on federal lands? If so, please describe the federal obligation(s) on the proposed BRGP.

**REFERENCES CITED**

Jacobs 2023a – Jacobs (TN 249752). Black Rock Geothermal Project Application for Certification, Volume 1, dated April 18, 2023. Available online at:

**LAND USE**

**Author:** Andrea Koch

**BACKGROUND: AGRICULTURAL LAND USES**

The application states in Section 5.4.1.1 that the project site is an active agricultural site currently planted with Bermuda Grass crop. Section 5.11.1.4.1 states that the Black Rock Geothermal Project (BRGP) site, adjacent production and injection well pads, associated pipelines, the IID switching station, gen-tie line, borrow pits, laydown areas, and construction camps are in, or traverse through, areas designated as Prime Farmland, Farmland of Statewide Importance, or Farmland of Local Importance. Disturbance at the construction work areas, including laydown yards, construction camps, and borrow sites would be temporary, as these sites would be restored to pre-

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construction conditions or conditions specified by the landowner after construction. However, the application states that there would also be permanent disturbance of farmland, including a total of: 56.36 acres of Prime Farmland; 65.65 acres of Farmland of Statewide Importance; and 2.28 acres of Farmland of Local Importance. This includes permanent disturbance directly from the BRGP and from facilities shared by all three geothermal projects, including the IID switching station.

### **DATA REQUESTS**

4. Please describe current land uses at the sites that would be permanently converted from Prime Farmland, Farmland of Statewide Importance, or Farmland of Local Importance. If currently or recently used for agriculture, please discuss the crops currently and/or recently farmed.
5. Please describe current land uses at the sites where Prime Farmland, Farmland of Statewide Importance, and Farmland of Local Importance would be temporarily disturbed. 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 with mitigation. Section 5.11.4.11 notes that Imperial County has established agricultural mitigation measures based on guidance received from the Department of Conservation Division of Land Resource Protection, and that farmland mitigation would be provided in conformance with Imperial County requirements. 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-mmnp.pdf>

CEC staff found that the Imperial County General Plan includes a program on page 65 of the Land Use Element which applies to the project. It states that when a project is proposed on land designated as "Agricultural" by the General Plan and would result in the loss of more than 40 acres of Prime Farmland, the developer must provide at least the same amount of replacement land for mitigation. It also states that the replacement land must be placed under a Williamson Act contract, must have water availability, must be cultivated, and must be located outside the path of development.

CEC staff notes that although these mitigation measures used by Imperial County 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

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partial mitigation, is inadequate to support a finding that the impacts of the loss to farmland proposed by this 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 would likely result in significant impacts to agriculture, which would require the CEC to adopt a statement of overriding considerations, if approved.

### **DATA REQUESTS**

6. 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.
7. Please describe how the project will comply with the Imperial County General Plan's mitigation program for Prime Farmland.
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
  - Cross-section showing injection wells and the injection and overlying formations

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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