

DOCKETED	
Docket Number:	23-AFC-01
Project Title:	Morton Bay Geothermal Project (MBGP)
TN #:	253237
Document Title:	CEC Response Letter re Confidentiality Application dated October 31, 2023
Description:	N/A
Filer:	Ngoc Tran
Organization:	California Energy Commission
Submitter Role:	Commission Staff
Submission Date:	11/17/2023 3:51:58 PM
Docketed Date:	11/17/2023



November 17, 2023

Via Email

Samantha Neumyer
Ellison Schneider Harris & Donlan, LLP
2600 Capitol Ave, Suite 400
Sacramento, California 95816
sgn@eslawfirm.com

**Application for Confidential Designation
Morton Bay Geothermal Project
Docket No. 23-AFC-01**

Dear Samantha Neumyer:

The California Energy Commission (CEC) has received a Morton Bay Geothermal Project (applicant) Application for Confidentiality, dated October 31, 2023 (TN 252847) covering the following information:

- Figures 5, 6a, 6b, 7a, 7b, 8a, 8b;
- Appendix A: 2023 BUOW Breeding Season Proposed Methods, Figure 2;
- Appendix E: Representative BUOW at Burrow Photographs; and
- Appendix G: Occupied Burrow Photographs Within the Biological Study Areas

The applicant states that the figures and appendices should be kept confidential because they contain sensitive information regarding the location of certain special status biological resources. The applicant asserts Government Code section 7922.000 as the basis for confidentiality of the figures and appendices.

The applicant states that the figures and appendices are accessible to employees or consultants working on behalf of the applicant, biological resources professionals and organizations with access to the California Natural Diversity Database (CNDDDB), and regulatory agencies that have regulatory oversight or other responsibilities over either the figures and appendices or the Morton Bay Geothermal Project.

The applicant asserts, under Government Code section 7922.000, that the public interest in nondisclosure of the information outweighs disclosure because disclosing the figures and appendices may enable entities to locate sensitive biological resources and collect or disturb those resources without authorization.

A properly filed application for confidentiality shall be granted under California Code of Regulations, title 20, section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the [California Energy] Commission to keep the record confidential."

The CEC biological resources staff reviewed the maps and photos of burrowing owls submitted by the applicant. Based on the detail of the photos, the information on the maps and the nature of the species at issue, staff determined that the maps and photos do not need to be confidential because they do not pose a risk to the biological resources. Therefore, confidentiality is denied for the above figures and appendices. The CEC staff will file the figures and appendices in docket No. 23-AFC-01 to ensure public access.

You may request that the CEC determine the confidentiality of records for which the executive director denied confidential designation. You have 14 days to request that the CEC determine the confidentiality of the record. If you make such a request, the CEC will conduct a proceeding pursuant to the provisions in the California Code of Regulations, title 20, section 2508.

Be advised that persons may petition to inspect or copy records that have been designated as confidential, the executive director may disclose, or release records previously designated as confidential in certain circumstances, and the CEC may hold a hearing to determine the confidentiality of its records on its own motion or on a motion by CEC staff. The procedures and criteria for disclosing or releasing, filing, reviewing, and acting upon such petitions or motions are set forth in the California Code of Regulations, title 20, sections 2506 through 2508.

If you have questions, please email confidentialityapplication@energy.ca.gov.

Sincerely,



Drew Bohan
Executive Director