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<b>Project Title:</b>	Morton Bay Geothermal Project (MBGP)
<b>TN #:</b>	254411
<b>Document Title:</b>	Applicant's Notice Pursuant to 20 CCR § 1716(f) for CURE's Data Requests Set 4
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**THE STATE OF CALIFORNIA**

**State Energy Resources Conservation  
and Development Commission**

In the Matter of: )  
Application for Certification for the )  
Morton Bay Geothermal Project )  
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Docket No. 23-AFC-01

**APPLICANT’S NOTICE PURSUANT TO 20 C.C.R. § 1716(f)  
FOR CURE’S DATA REQUESTS SET 4**

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**STATE OF CALIFORNIA  
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**APPLICANT’S NOTICE PURSUANT TO 20 C.C.R. § 1716(f)  
FOR CURE’S DATA REQUESTS SET 4**

Pursuant to Section 1716(f) of the California Energy Commission’s (“CEC”) regulations, Morton Bay Geothermal LLC (the “Applicant”) hereby provides this of objection to certain data requests set forth in the California Unions for Reliable Energy’s (“CURE”) *CURE Data Requests Set 4 – Morton Bay Geothermal Project*, which was filed on January 22, 2024 (“*Data Requests Set 4*”).<sup>1</sup> Without waiving any of these objections, the Applicant reserves the right to provide responses, in whole or in part, to some or all of the data requests identified below.

**I. NOTICE OF OBJECTION**

Section 1716(b) of the CEC’s regulations provides that any party may request from an applicant information that is both (1) reasonably available to the applicant and (2) relevant or reasonably necessary to make any decision on the application for certification.<sup>2</sup> Section 1716 does not require that an applicant “perform research or analysis on behalf of the requesting party.”<sup>3</sup> In evaluating whether a data request involves “discoverable information” or “undiscoverable analysis or research,” the CEC typically considers four factors: (1) the relevance of the information; (2) whether the information is available to the applicant, or from some other source, or whether the information has been provided in some other form; (3) whether the request is for data, analysis, or research; and (4) the burden on the applicant to provide the data.<sup>4</sup> If a party receives notice that information will not be provided, Section 1716(g) further provides that the party requesting data may petition the committee for an order directing the Applicant to provide such information, within 30 days of the

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<sup>1</sup> TN#: 254077.

<sup>2</sup> 20 C.C.R. § 1716(b).

<sup>3</sup> See *Committee Ruling on Intervenor Center for Biological Diversity’s Petition to Compel Data Requests*, Docket No. 07-AFC-6 (Dec. 26, 2008).

<sup>4</sup> *Id.*

notice. As described below, the Applicant objects to the following data requests for not meeting the requirements of Section 1716.

**A. Data Requests 258-261: Provide data or documents describing the reservoir permeability, porosity, thermal conductivity, and fractures in the reservoir.**

The Applicant objects to Data Requests 258 through 261 as requesting information that is confidential and privileged trade secret information. The Applicant also objects to Data Requests 258 through 261 as vague, overbroad, and burdensome. Finally, the Applicant objects to Data Requests 258 through 261 as neither relevant to the proceeding nor reasonably necessary to make any decision on the application for certification (“AFC”). The CEC has already made its determination regarding the adequacy of the geothermal resource and information regarding the geothermal reservoir properties has already been provided in some other form, including the *Numerical Reservoir Simulation of the Salton Sea Geothermal Resource for Power Generation*,<sup>5</sup> and *CURE Data Response Set 1*, Data Responses 9-20, and 57.<sup>6</sup>

Further, to the extent that Data Requests 258 through 261 request the same information previously requested as part of CURE’s *Data Requests Set 1 for Morton Bay Geothermal Project*, Data Requests 9 and 58, the Applicant also objects to such data requests as untimely.<sup>7</sup> On November 14, 2023, the Applicant timely filed a notice of objection to Data Request 58. On November 29, 2023, without waiving its objection, the Applicant provided responses to Data Requests 9 and 58. CURE did not file a petition in response to the Applicant’s objection, nor did it file one following its receipt of the requested information. CURE cannot circumvent its failure to timely seek production of information as provided for in Section 1716(g) through the issuance of a new data request. Therefore, the Applicant objects to Data Requests 258 through 261.

**B. Data Request 264: Provide the reservoir numerical modeling report.**

The Applicant objects to Data Request 264 as vague and overbroad because it is unclear what “reservoir numerical modeling report” is subject to this data request. The Applicant notes that the *Numerical Reservoir Simulation of the Salton Sea Geothermal Resource for Power Generation* has already been filed and is available in the docket of this proceeding.<sup>8</sup> To the extent Data Request 264

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<sup>5</sup> TN#: 250042.

<sup>6</sup> TN#: 253374.

<sup>7</sup> Specifically, Data Request 58 requested information describing “the intrinsic permeability and fracture aperture and density with regards to the feasibility of fluid injection into the competent subsurface formation.”

<sup>8</sup> TN#: 250042.

is intended to request anything other than the previously filed *Numerical Reservoir Simulation of the Salton Sea Geothermal Resource for Power Generation*, the Applicant objects to Data request 264 as potentially requesting information that is confidential, privileged, and that is neither relevant nor reasonably necessary to make a decision on the AFC as the CEC has already made its determination on the adequacy of the geothermal resource.

**C. Data Request 270: Provide a map that depicts the habitats within the Project’s one-mile and 1,000-foot buffer areas.**

The Applicant objects to Data Request 270 as vague, overbroad, and burdensome. Furthermore, the Applicant objects to Data Request 270 as requesting that the Applicant prepare specific studies and analyses on behalf of CURE. Information regarding the habitats within the Project’s one-mile and 1,000-foot buffer area has already been submitted in this proceeding.<sup>9</sup> To the extent that CURE desires a map depicting this information, CURE is free to utilize the substantial information already provided in this proceeding to prepare one. Finally, because habitat information is already available in this proceeding, the requested map is not reasonably necessary to make any decision on the AFC. Therefore, the Applicant objects to Data Request 270.

Dated: February 12, 2024

Respectfully submitted,

ELLISON SCHNEIDER HARRIS & DONLAN L.L.P.

By  \_\_\_\_\_

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<sup>9</sup> For example, see TN#: 250679.