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**STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

IN THE MATTER OF:

Morton Bay Geothermal Project

Elmore North Geothermal Project

Black Rock Geothermal Project

**Docket Nos.: 23-AFC-01, 23-AFC-02,
and 23-AFC-03**

**Staff's Motion to Extend the Due Date
for the Final Staff Assessments**

I. INTRODUCTION

The California Energy Commission (CEC) staff brings this motion under California Code of Regulations, title 20, section 1211.5, seeking an order extending the due dates for the Final Staff Assessments for the Morton Bay, Elmore North, and Black Rock Geothermal Projects (collectively, Proposed Projects). As described in this motion, staff is still waiting on critical information preventing it from completing the Final Staff Assessment (FSA) for each project. To address the delay, staff requests the following changes to the schedule: (1) reschedule publication of the FSA for Elmore North Geothermal Project (ENGP) to five weeks following receipt of all outstanding data and information, (2) reschedule publication of the FSA for Morton Bay Geothermal Project (MBGP) for two weeks after ENGP, and (3) reschedule publication of the FSA for the Black Rock Geothermal Project (BRGP) for two weeks after MBGP.

II. BACKGROUND

On December 9, 2024, the Presiding Member for the Committees issued a Revised Joint Scheduling Order and Request for Information Regarding Cultural and Tribal Cultural Resources (Revised Scheduling Order, TN 260570). The Revised Scheduling Order includes the due dates for the FSA for each of the Proposed Projects: ENGP is due on February 5, 2025, MBGP is due on February 19, 2025, and BRGP is due on March 5, 2025. The Revised Scheduling Order further provides that if a party determines, after a good faith effort, it cannot meet a specified deadline, it must notify the Committee upon reaching that conclusion and file a motion requesting a modification.

As reported in staff's monthly status reports for the Proposed Projects, including its most recent December 2024 monthly status reports, staff has requested data, reports and other information for the FSA that have not been provided (TNs 260815, 260816, 260817). There are still outstanding requests for information in the areas of Air Quality, Biological Resources, and Water Resources. Additionally, staff is waiting for the applicant's revised project descriptions. After making a good faith effort to obtain this information, staff has

determined that at this point it is prevented from meeting the current due dates for the Final Staff Assessments.

The following is a description of outstanding information:

a. Air Quality

Staff is waiting for modeling data on air quality and public health following proposed design changes for the ENGP. The reconfiguration changes the way the facility interacts with and impacts the local ambient environment, invalidating the modeling results in the Preliminary Staff Assessment (PSA). Further, after receiving modeling data for the reoriented cooling tower at the ENGP, staff will need several weeks to perform independent modeling analysis. Without this modeling, a complete picture of the baseline environmental condition is not fully known, and impacts cannot be fully assessed and described. Additionally, staff is waiting for the Imperial County Air Pollution Control District's Final Determination of Compliance (FDOC) to ensure any changes to permit conditions made after the publication of the Preliminary Determination of Compliance (PDOC) are incorporated into the FSA.

b. Biological Resources

Burrowing Owls – Staff is waiting for input from the California Department of Fish and Wildlife (CDFW) on mitigation measures for burrowing owls following the recent decision to list the species as a candidate under the California Endangered Species Act. Allowing additional time to determine appropriate mitigation in the project area provides the Committees with the best available information upon which to render its decision.

Yuma's Ridgway Rail and Desert Pupfish – Staff is waiting for the applicant to provide an agricultural flow return assessment for both species at all the Proposed Projects as well as a biological assessment for impacts to rails at the MBGP. This information is essential in understanding the potential impacts to rail and pupfish habitat and necessary to determine the appropriate mitigation measures. This information is also responsive to PSA comments from U.S. Fish and Wildlife Service (USFWS) and others. Following receipt of this information, staff will need three to four weeks to review the information and determine mitigation measures in coordination with CDFW and USFWS.

Nitrogen Deposition – Staff is waiting for data from the applicant for revised Nitrogen deposition modeling. This data will be used to inform the Nitrogen Emission and Deposition Impacts section of the Final Staff Assessment and to analyze impacts to sensitive natural communities and significant regional protected areas. This further modelling is required because of the proposed reorientation of the cooling towers at the ENGP.

Wetlands work in areas under existing Restoration Plan – Staff is waiting for additional information from the applicant to assess any impacts from the

applicant's well pads, generation tie-line segments, and a pull site on a wetlands area under restoration orders from a prior project. This information is essential for determining impacts to vegetation communities under CEQA Guidelines Environmental Checklist criterion b for all Proposed Projects, and aquatic resource impacts under criterion c for the MBGP.

c. Water Resources

Staff is waiting for the applicant to provide the Salton Sea Impact Study, evaluating impacts of anticipated reductions in water flows to the Salton Sea resulting from project implementation, which was first requested in July 2024. The diversion of agricultural water to industrial use reduces runoff into the Salton Sea, and staff must receive data describing the baseline and the projected impacts from the industrial use to provide the Committee with a sufficient recommendation on the impacts and any necessary mitigation. Further, staff is waiting for guidance from the Colorado River Basin Regional Water Quality Control Board on a water resources issue. The applicant is considering a flood control plan that involves surface impoundment in a 100-year floodplain. Once received, staff will also need time to evaluate this input and the applicant's flood control plan for the Final Staff Assessment.

d. Revised Project Descriptions

The applicant states in its December 2024 Status Reports that revised project descriptions for ENGP, MBGP, and BRGP would be submitted by mid-January 2025 (TNs 260869, 260870, 260871). However, as of the date of this filing, revised project descriptions have not been provided.

III. DISCUSSION

Under California Code of Regulations, title 20, section 1203, the authority of the Presiding Member to regulate the proceeding includes the authority to modify any deadlines set by the Committee. Modification of the Revised Scheduling Order is necessary for staff to complete its analysis for the FSA. Despite the timely and diligent issuance of data requests, and ongoing cooperation with other government agencies, staff has not yet received all necessary information to perform a thorough evaluation of the impacts of the Proposed Projects. It is important to note that the FSA is more than just a CEQA-compliant environmental document. The FSA also serves as the primary testimony of expert staff to support the CEC's decision on the application for certification. Ensuring complete and accurate testimony is critical for a defensible decision and will result in a more streamlined evidentiary hearing by reducing the need for oral testimony and supplemental written testimony.

On January 21, 2025, staff contacted the applicant and all intervenors to meet and confer on the current schedule. The applicant indicated it was not taking a position on the motion and would respond as provided for in the Revised Scheduling Order. Intervenors United Automobile, Aerospace and Agricultural Implement Workers of America, Supporters

Alliance for Environmental Responsibility (SAFER), and California Unions for Reliable Energy indicated they would not oppose the motion. No responses were received from other Intervenor.

IV. CONCLUSION AND ORDER

Given the significant outstanding data requests that are vital to staff's environmental analysis of the Proposed Projects, staff seeks an order rescheduling: (1) publication of the FSA for ENGP to five weeks following receipt of all outstanding data and information, (2) publication of the FSA for MBGP two weeks after ENGP, and (3) publication of the FSA for the BRGP two weeks after MBGP.

Dated: January 24, 2025

/s/

Matthew Pinkerton

Office of the Chief Counsel
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