DOCKETED			
Docket Number:	23-AFC-01		
Project Title:	Morton Bay Geothermal Project (MBGP)		
TN #:	249772		
Document Title:	App for Confidential Designation for AFC Appendix 52B, CNDDB Figures		
Description:	N/A		
Filer:	Amanda Cooey		
Organization:	Ellison Schneider Harris & Donlan LLP		
Submitter Role:	Applicant Representative		
Submission Date:	4/18/2023 3:27:53 PM		
Docketed Date:	4/18/2023		



April 18, 2023

Mr. Drew Bohan Executive Director California Energy Commission 715 P Street Sacramento, CA 95814

RE: Morton Bay Geothermal Project (23-AFC-01) Application for Confidential Designation for AFC Appendix 5.2B, CNDDB Figures

Dear Mr. Bohan:

Pursuant to Sections 2505 *et seq.*, of Title 20 of the California Code of Regulations, Morton Bay Geothermal LLC (the "Applicant") hereby submits this *Application for Confidential Designation* for Appendix 5.2B, CNDDB Figures, of the Application for Certification of the Morton Bay Geothermal Project.

Please contact us at (916) 447-2166 if you have any questions or require additional information. Thank you.

Sincerely,

/s/

Samantha G. Neumyer Christopher T. Ellison Ellison Schneider Harris & Donlan LLP

Attorneys for Applicant

APPLICATION FOR CONFIDENTIAL DESIGNATION Morton Bay Geothermal Project (23-AFC-01)

Specifically indicate those parts of the record which should be kept confidential.
a. Title, date, and description (including number of pages) of the information or data for which you request confidential designation.

b. Parts of the information or data for which you request confidential designation

Morton Bay Geothermal LLC (the "Applicant") seeks confidential designation for the following biological resources information (the "Information") submitted on behalf of the Morton Bay Geothermal Project ("MBGP"):

AFC Appendix Number	Title	AFC Subject Area/ Description	# of Confidential Pages
5.2B	California Natural Diversity Database	Biological Resources	All pages
	Figures - Confidential	Figures depicting locations of special-status species.	

The Information should be kept confidential in its entirety as it contains sensitive information regarding the location of certain biological resources.

2. State the length of time the record should be kept confidential, and provide justification for the length of time.

The Information should be held confidential indefinitely to protect the biological resources identified therein.

- *3. Cite and discuss:*
 - (a) the provisions of the Public Records Act or other law that allow the Commission to keep the information or data confidential, and explain why the provision applies to the material.
 - (b) the public interest in nondisclosure of the material submitted for confidential designation. If the material contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please state how it would be lost, the value of the information to the applicant and the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

California Energy Commission Staff has directed the Applicant to submit the Information under confidential cover as the figures contain sensitive information regarding biological resources. The Information includes details regarding special status and common species occurrences and locations in the areas surveyed on behalf of the MBGP obtained from the California Natural Diversity Database ("CNDDB"), in addition to information obtained from surveys conducted on behalf of the Applicant. California Government Code Section 7922.000 provides that an agency may withhold information from disclosure where the public interest served by nondisclosure clearly outweighs the public interest of disclosure. The public interest in nondisclosure

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outweighs that of disclosure, as disclosure may enable the location of sensitive biological resources sites by entities conducting unauthorized collection or disturbance of such resources.

4. State whether the information may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so the degree of aggregation or masking required.

The Applicant considered whether it would be possible to aggregate or mask the Information. Figures depicting general locations and other descriptive details contained within the Information have been provided as part of the Application for Certification, but at a less granular level of detail. This facilitates an understanding of the types and general locations of the biological resources in the study area without disclosing specific site information.

5. State whether and how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances.

The Information is accessible to employees or consultants working on behalf of the Applicant; biological resources professionals and organizations with access to the CNDDB; and regulatory agencies that have regulatory oversight or other responsibilities over either the Information or the MBGP.

I certify under penalty of perjury that the information contained in this Application for Confidential Designation is true, correct, and complete to the best of my knowledge and belief. I am authorized to make this Application and Certification on behalf of the Applicant.

Dated: April 18, 2023

ELLISON SCHNEIDER HARRIS & DONLAN LLP

By: /s/

Samantha G. Neumyer Christopher T. Ellison

Attorneys for the Applicant