

DOCKETED	
Docket Number:	23-AFC-03
Project Title:	Black Rock Geothermal Project (BRGP)
TN #:	249800
Document Title:	Application for Confidential Designation for AFC Appendix 3A, BHE Cluster System Impact Study
Description:	N/A
Filer:	Amanda Cooley
Organization:	Ellison Schneider Harris & Donlan LLP
Submitter Role:	Applicant Representative
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April 18, 2023

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

RE: **Black Rock Geothermal Project (23-AFC-03): Application for Confidential Designation for AFC Appendix 3A, BHE Cluster System Impact Study**

Dear Mr. Bohan:

Pursuant to Sections 2505 et seq., of Title 20 of the California Code of Regulations, Black Rock Geothermal LLC (the "Applicant") hereby submits this *Application for Confidential Designation* for Appendix 3A, *BHE Cluster System Impact Study*, of the Application for Certification of the Black Rock 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

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1. *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.

Black Rock Geothermal LLC (“Applicant”) seeks confidential designation for the following:

AFC Appendix Number	Title	AFC Subject Area/ Description	# of Confidential Pages
3A	<i>BHE Cluster System Impact Study</i>	Transmission System Engineering/ Project Description Appendix 3A contains the interconnection documents and system impact study prepared by Imperial Irrigation District (“IID”) for the Black Rock Geothermal Project.	All pages

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

The *BHE Cluster System Impact Study* (“CSIS”) should be kept confidential in its entirety.

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

The CSIS should be kept confidential for the operating life of the facility, or as otherwise specified by IID.

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.*

The Public Records Act allows the California Energy Commission (“CEC”) to exempt from disclosure information and records where “...on the facts of the particular case the public interest

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served by not disclosing the record clearly outweighs the public interest served by disclosure of the record.” (Gov’t Code § 7922.000.)

The public interest served by not disclosing the CSIS clearly outweighs the public interest served by disclosure. The CSIS has been designated as confidential information by IID and contains information that the Applicant understands is considered by IID to constitute critical energy/electricity infrastructure information (“CEII”). The CEC should similarly keep such information confidential as nondisclosure of the information will protect against potential misuse of the information for illicit purposes, such as vandalism, tampering, or other third-party imposed damages. The public interest in preventing such acts clearly outweighs the public interest served by disclosure of the information for which the Applicant is seeking confidential designation.

The CSIS also contains trade secrets related to commercially valuable information related to the interconnection of the Black Rock Geothermal Project. The Public Records Act exempts “trade secrets” from public disclosure, including “any formula, plan,...production data, or compilation of information..., which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service...and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.” (Govt. Code § 7924.510(f).) The CSIS is a non-public document that includes commercially sensitive, transmission planning and cost information that fall within the definitions of “trade secret.” The CSIS contains information that has independent economic value from not being generally known to the public or to the Applicant’s competitors who can obtain economic value from its disclosure or use. Disclosure may cause a loss of competitive advantage to the Applicant, as competitors could ascertain transmission planning and cost information that may affect bids in competitive solicitations.

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 portions of the CSIS, and it may be possible to aggregate or redact certain portions. However, the Applicant requests that the CEC consult with the Applicant to make this determination based on the potential production of materials subject to the Application to ensure that important CEII or trade secret information is not disclosed.

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 CSIS is accessible to employees or consultants providing essential services to the Applicant and has been disclosed to certain entities such as the CEC that have responsibilities relating to transmission planning or the Black Rock Geothermal Project. The CSIS should be designated as confidential going forward to limit access to the information contained therein.

I certify under penalty of perjury that the information contained in this Application for

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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 Applicants.

Dated: April 18, 2023

By:

/s/

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

Attorneys for Applicant