

**DOCKETED**

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<b>Project Title:</b>	Black Rock Geothermal Project (BRGP)
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**THE STATE OF CALIFORNIA**

**State Energy Resources Conservation  
and Development Commission**

In the Matter of: )  
Application for Certification for the )  
Black Rock Geothermal Project )  
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Docket No. 23-AFC-03

**APPLICANT'S NOTICE PURSUANT TO 20 C.C.R. § 1716(f)  
FOR CEC STAFF'S DATA REQUESTS SET 1**

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**STATE OF CALIFORNIA  
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**APPLICANT’S NOTICE PURSUANT TO 20 C.C.R. § 1716(f)  
FOR CEC STAFF’S DATA REQUESTS SET 1**

Pursuant to Section 1716(f) of the California Energy Commission’s (“CEC’s”) regulations, Black Rock Geothermal LLC (“Applicant”) hereby provides notice that additional time may be required to respond to six of the 98 data requests included in CEC Staff’s *Data Requests Set 1 for Black Rock Geothermal Project (23-AFC-03)*, which were filed on August 31, 2023 (“*Data Requests Set I*”).<sup>1</sup> The Applicant also provides notice of its objection to Data Request 9 as described in Section II.

**I. NOTICE OF ADDITIONAL TIME**

Section 1716(f) provides that any party requested to provide information must provide a notification to the requesting party and the Committee if it is unable to provide the requested information within 30 days of the date that a request is made. Several of the data requests in *Data Requests Set 1* require either new air dispersion modeling to be performed or additional field surveys to be conducted. These activities cannot be concluded within the time provided for in Section 1716(f) as air dispersion modeling takes approximately six weeks to complete and the areas to be surveyed are currently covered in crops or are inundated with water. Therefore, the Applicant is providing notice that additional time is needed to respond to the following data requests.

**A. Data Request 7**

As part of the Application for Certification (“AFC”), the Applicant conducted an extensive air quality modeling analysis for the Black Rock Geothermal Project, including detailed modeling for specific activities such as geothermal steam flashing. Because of the mobile nature of the operations and limited number of hours and period for which the mobile testing unit (“MTU”) would be deployed, specifically only during commissioning activities, the MTU was not included in the analysis.

Data Request 7 requests that the Applicant “provide a revised impact analysis to include the MTU with other emission sources modeled previously,” in addition to incorporating the results of the revised H<sub>2</sub>S impact analysis requested in Data Request 9, the revised nitrogen deposition modeling analysis that is the subject of Data Request 11, and the revised health risk assessment requested in Data Requests 65 and 66. The Applicant will provide the requested information but does not plan to incorporate the information requested in Data Request 9, which is the subject of an objection as

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<sup>1</sup> TN#: 252096.

explained in Section II below. Furthermore, additional time is needed to complete the modeling for the requested revised impact analysis. Therefore, the Applicant expects to provide a response on or before November 10, 2023.

### **B. Data Requests 10 and 11**

Data Requests 10 and 11 request documentation and updated nitrogen deposition modeling. Additional time is needed to complete the modeling and provide the supporting documentation. The Applicant expects to provide a response on or before November 10, 2023.

### **C. Data Request 33**

Data Request 33 requests archaeologists to resurvey the previously low visibility portions of the archaeological study area and prepare an addendum to the cultural resources technical report. Surveys of these areas are underway. However, access to certain areas remains restricted because portions of these areas continue to remain in active farming or are currently inundated with water. Therefore, due to existing conditions, additional time is needed to complete the requested surveys and prepare an addendum to the cultural resources technical report. The Applicant expects to provide the requested information within 30 days of the completion of surveys. The Applicant is confirming the timeframe for harvesting existing crops and will provide an updated timeframe in its responses to *Data Requests Set 1*.

### **D. Data Request 65**

Data Request 65 requests a revised operation Health Risk Assessment to include H<sub>2</sub>S. Additional time is needed to complete the modeling/analysis to support the requested revisions. The Applicant expects to provide a response on or before November 10, 2023.

### **E. Data Request 66**

Data Request 66 requests that the Applicant revise the Health Risk Assessment to include MTU emissions. Because the requested revisions will require the results of new air quality modeling that incorporates MTU emissions, additional time will be needed. The Applicant expects to provide the requested information on or before November 10, 2023.

## **II. NOTICE OF OBJECTION**

Section 1716(b) of the Commission'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 AFC.<sup>2</sup> Section 1716 does not require that an applicant "perform research or analysis on behalf of the requesting party."<sup>3</sup> The Applicant objects to the data requests below as not meeting the requirement of Section 1716(b).

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<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).

## A. Data Requests 9

Data Request 9 requests that the Applicant provide an updated H<sub>2</sub>S impact analysis for a worst-case scenario that utilizes emission rates from sparger bypass and biological oxidation box bypass events as the emissions assumption for routine operations. The Applicant interprets Data Request 9 as requesting modeling that assumes that the facility's H<sub>2</sub>S emissions for all 8,760 meteorological hours in a year are equivalent to breakdown condition emissions levels for a 1-hour averaging period.

The sparger and biological oxidation box bypass operations are only expected to occur during breakdown scenarios in which the associated control equipment is not properly functioning. Although these breakdown scenarios are possible, they are not considered reasonably foreseeable. Furthermore, these breakdown operations would be limited in duration by Imperial County Air Pollution Control District ("ICAPCD") Rule 111, which provides that breakdown conditions must be remedied within 24 hours of the event. If not remedied within that time, the facility must be shut down.<sup>4</sup>

Though infrequent and unforeseeable, the Applicant conservatively included emissions associated with these breakdown conditions in the facility's Potential to Emit ("PTE"). This approach assures New Source Review, Title V, and Prevention of Significant Deterioration permit applicability are based on the highest possible emissions. Emissions associated with these breakdown conditions were not, however, incorporated into the dispersion modeling and health risk assessment. This approach of including unforeseeable emissions in a facility's PTE for permit applicability determinations but not modeling analyses is consistent with the Bay Area Air Quality Management District's 2019 policy titled "Calculating Potential to Emit for Emergency Backup Power Generators." Although this policy is geared towards emergency backup power generators, parallels do exist regarding the expected infrequent events of unknown duration.

For the above reasons, the Applicant objects to revising the H<sub>2</sub>S impact analysis to incorporate emissions from sparger and biological oxidation box bypass operations. The results from this modeling would not be a worst-case analysis of potential impacts, but rather an event that is not reasonably foreseeable. Analysis of a situation that is not reasonably foreseeable has no relevance in this proceeding and is not reasonably necessary for any decision on the AFC.

Therefore, the Applicant objects to Data Request 9 as requesting information that is neither relevant nor reasonably necessary for any decision on the AFC.

Although the Applicant objects to Data Request 9, the Applicant is willing to work with CEC Staff to develop a more reasonable worst-case scenario for analysis.

Dated: September 20, 2023

Respectfully submitted,

ELLISON SCHNEIDER HARRIS & DONLAN L.L.P.

By



Christopher T. Ellison

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<sup>4</sup> ICAPCD Rule 111(B).

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