

DOCKETED	
Docket Number:	23-AFC-02
Project Title:	Elmore North Geothermal Project (ENGP)
TN #:	252816
Document Title:	Elmore North Application for Confidential Designation for Data Response Set 2 Figures
Description:	N/A
Filer:	Amanda Cooley
Organization:	Ellison Schneider Harris & Donlan LLP
Submitter Role:	Applicant Representative
Submission Date:	10/27/2023 4:08:23 PM
Docketed Date:	10/27/2023



October 27, 2023

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

RE: **Elmore North Geothermal Project (23-AFC-02): Application for Confidential Designation for Data Response Set 2 Figures**

Dear Mr. Bohan:

Pursuant to Sections 2505 et seq., of Title 20 of the California Code of Regulations, Elmore North Geothermal LLC (the "Applicant") hereby submits this *Application for Confidential Designation* for the following figures submitted in response to California Energy Commission Staff's *Data Request Set 2*:

- Figure DRR 10b-1, Preliminary Hot Brine Injection Well Diagram;
- Figure DRR 10b-2, Preliminary Aerated Brine Injection Well Diagram;
- Figure DRR 10c-1, Injection Zone Contour Map; and
- Figure DRR 10d-1 Injection Wells and Formations.

Please contact me at 916-447-2166 should you have any questions or require additional information. Thank you.

Sincerely,

/s/

Samantha G. Neumyer
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.*

Elmore North Geothermal LLC (“Applicant”) seeks confidential designation for the following information (the “Information”) submitted on behalf of the Elmore North Geothermal Project (“ENGP”):

- Figure DRR 10b-1, Preliminary Hot Brine Injection Well Diagram;
- Figure DRR 10b-2, Preliminary Aerated Brine Injection Well Diagram;
- Figure DRR 10c-1, Injection Zone Contour Map; and
- Figure DRR 10d-1 Injection Wells and Formations.

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

The information 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 California Department of Conservation, Geologic Energy Management Division (“CalGEM”) has granted confidential status for all records relating to the wells for the ENGP. Public Resources Code section 3752 and CalGEM’s regulations provide for confidential treatment of the well records until five (5) years from the cessation of drilling operations for that well, unless an extension of confidential status is granted. The Applicant requests that the California Energy Commission (“CEC”) hold the Information confidential for the same period as CalGEM for Figures DRR 10b-1, 10b-2, and 10d-1, which contain well records information subject to CalGEM’s confidentiality determination.

The Applicant requests that Figure DRR 10c-1 be held confidential through the operating life of the ENGP as it contains confidential business information.

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.*

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On October 25, 2023, CalGEM granted confidential status for well records relating to the ENGP in accordance with Public Resources Code section 3752 and California Code of Regulations Title 14, sections 1995 through 1997.5. Pursuant to Section 2505(a)(1)(H) of the CEC's regulations, a copy of CalGEM's grant of confidential status for well records associated with the ENGP's wells is provided as Attachment A to this application.¹ The Applicant requests that the CEC designate Figures DRR 10b-1, 10b-2, and 10d-1 as confidential because the figures contain well records information subject to CalGEM's confidentiality determination.

The Information contained in Figures DRR 10b-1, 10b-2, 10c-1, and 10d-1 is also exempt from disclosure under the Public Records Act as a trade secret and proprietary business information. Section 7924.510 states that a trade secret may include, but is not limited to, any process, compound, production data, or compilation of data that meet the following requirements; "(1) it is not patented, (2) it is known to only certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value, and (3) it gives its user an opportunity to obtain a business advantage over competitors who do not know or use it." The Information provides detailed information regarding the underlying geothermal resource and proposed well design for the ENGP's injection wells, including specific well depths, locational data, and specific casing information and shoe location. The Information is not patented and is only known to certain individuals who use the Information to generate electricity from the geothermal resource. The Information provides a business advantage over competitors who do not have similar information.

Second, the Information should also be protected pursuant to Gov't Code §7927.605(a). Here, the legislature broadly protects private industry trade secrets from disclosure, as well as "corporate proprietary information." The privilege protecting disclosure of trade secrets pertains to processes, plans or other information applicable to a service (here the production and delivery of energy and capacity) that has value or provides the holder of the trade secret an opportunity to obtain an advantage over business competitors.² The Information contains highly confidential information relating to the injection well design for the ENGP, including specific depths, materials information, and location and direction of the well to best utilize the geothermal resource. If an outside entity gained access to this information, they would be unfairly apprised of confidential data regarding not only the geothermal resource but well records for the ENGP. Entities developing geothermal facilities operate in a fiercely competitive arena where potential competitors could use the Information to gain insights they otherwise would not have regarding the viability of the geothermal resource in this area and the productivity of the wells. This would harm the Applicant directly or indirectly through the loss of its competitive advantage.

Third, the PRA provides a specific exclusion from disclosure where "...on the facts of the particular case the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record." (Gov't Code § 7922.000.)

In this case, the public interest served by not disclosing the Information clearly outweighs the public interest served by disclosure. As noted above, the Applicant has an interest in protecting

¹ The wells designated as "Red Hill" in Attachment A are part of the Elmore North Geothermal Project.

² Gov't Code Section 7927.605.

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the confidential business information from disclosure as it could impact its competitiveness in the energy markets. The public interest in disclosure is low, as Figures DRR 10b-1, 10b-2, and 10d-1 contain information typically held as confidential by CalGEM, and Figure DRR 10c-1 is not required to be produced by any regulatory agency and is used to evaluate resource production. Accordingly, the public interest in maintaining the confidential business information in confidence outweighs the need to disclose this record.

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 Information. However, the specific nature of the well records and reservoir information does not easily lend itself to aggregation or masking in a manner that can protect the confidential nature of the 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 only to the Applicant's employees or consultants working on behalf of the ENGP, employees or consultants working on behalf of the Black Rock Geothermal Project and Morton Bay Geothermal Project, agencies with regulatory oversight over the ENGP, and operational staff and consultants on a need to know basis.

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: October 27, 2023

By:

/s/

Samantha G. Neumyer
Ellison Schneider Harris & Donlan LLP

Attorneys for Applicant

Attachment A

Letter from California Department of Conservation, Geologic
Energy Management Division, granting confidential status



October 25, 2023

VIA EMAIL ONLY

William Thomas, Agent
CalEnergy Operating Corporation
7030 Gentry Road
Calipatria, CA 92233
william.thomas@calenergy.com

Dear Mr. Thomas:

CONFIDENTIAL STATUS FOR BLACK ROCK, MORTON BAY, AND RED HILL WELLS

Your request for confidential status for the wells listed in the attached table (Table 1. Wells Granted Confidential Status) is granted in accordance with Public Resources Code (PRC) Section 3752 and California Code of Regulations (CCR) Title 14, Sections 1995 through 1997.5. All records pertaining to a well identified in the aforementioned table received on and after October 17, 2023 will be held confidential until five (5) years from the cessation of drilling operations for that well as specified in PRC Section 3752(e). You may request an extension of confidential status beyond that date in accordance with CCR Section 1997.2 prior to the end of the confidential period.

If you have any questions regarding this matter, please contact John Huff at (714) 699-0651 or at john.c.huff@conservation.ca.gov.

Sincerely,

Charlene L Wardlow
Charlene L Wardlow
Geothermal Program Manager

cc: well files

Attachment: Table 1 – Wells Granted Confidential Status



Table 1. Wells Granted Confidential Status

No.	Well Designation	API Number
1	Morton Bay 1	not yet assigned
2	Morton Bay 2	02591533
3	Morton Bay 3	02591534
4	Morton Bay 4	not yet assigned
5	Morton Bay 5	not yet assigned
6	Morton Bay 6	not yet assigned
7	Morton Bay 7	not yet assigned
8	Morton Bay 8	not yet assigned
9	Morton Bay 9	not yet assigned
10	Morton Bay Injection 21	not yet assigned
11	Morton Bay Injection 22	not yet assigned
12	Morton Bay Injection 23	not yet assigned
13	Morton Bay Injection 24	not yet assigned
14	Morton Bay Injection 25	not yet assigned
15	Morton Bay Injection 26	not yet assigned
16	Morton Bay Injection 27	not yet assigned
17	Morton Bay Injection 28	not yet assigned
18	Morton Bay Condensate 101	not yet assigned
19	Morton Bay Aerated 102	not yet assigned
20	Morton Bay Condensate 103	not yet assigned
21	Red Hill 1	02591535
22	Red Hill 2	02591536
23	Red Hill 3	not yet assigned
24	Red Hill 4	not yet assigned
25	Red Hill 5	not yet assigned
26	Red Hill 6	not yet assigned
27	Red Hill 7	not yet assigned
28	Red Hill 8	not yet assigned
29	Red Hill 9	not yet assigned
30	Red Hill Injection 21	not yet assigned

Table 1 (continued).

No.	Well Designation	API Number
31	Red Hill Injection 22	not yet assigned
32	Red Hill Injection 23	not yet assigned
33	Red Hill Injection 24	not yet assigned
34	Red Hill Injection 25	not yet assigned
35	Red Hill Injection 26	not yet assigned
36	Red Hill Injection 28	not yet assigned
37	Red Hill Injection 29	not yet assigned
38	Red Hill Condensate 101	not yet assigned
39	Red Hill Aerated 102	not yet assigned
40	Red Hill Condensate 103	not yet assigned
41	Black Rock 1	02591531
42	Black Rock 2	02591532
43	Black Rock 3	not yet assigned
44	Black Rock 4	not yet assigned
45	Black Rock 5	not yet assigned
46	Black Rock Injection 10	not yet assigned
47	Black Rock Injection 11	not yet assigned
48	Black Rock Injection 12	not yet assigned
49	Black Rock Injection 14	not yet assigned
50	Black Rock Injection 15	not yet assigned
51	Black Rock Condensate 101	not yet assigned
52	Black Rock Aerated 102	not yet assigned