

DOCKETED	
Docket Number:	23-AFC-01
Project Title:	Morton Bay Geothermal Project (MBGP)
TN #:	252847
Document Title:	Application for Confidential Designation for Burrowing Owl Survey Report Biological Resources Figures and Appendices
Description:	N/A
Filer:	Amanda Cooley
Organization:	Ellison Schneider Harris & Donlan LLP
Submitter Role:	Applicant Representative
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October 31, 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 Burrowing Owl Survey Report Biological Resources Figures and Appendices**

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 figures and appendices contained in the Burrowing Owl Survey Report submitted in support 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
Ellison Schneider Harris & Donlan LLP

Attorneys for Applicant

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

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.

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”):

- Figures 5, 6a, 6b, 7a, 7b, 8a, 8b;
- Appendix A: 2023 BUOW Breeding Season Proposed Methods, Figure 2;
- Appendix E: Representative BUOW at Burrow Photographs; and
- Appendix G: Occupied Burrow Photographs Within the Biological Study Areas

If granted confidential designation by the California Energy Commission (“CEC”), 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 for the period determined necessary by the CEC 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.*

CEC Staff has directed the Applicant to submit figures and data, such as that contained in the Information, under confidential cover, for an evaluation of whether the figures contain sensitive information regarding special status biological resources.

The Information includes details regarding burrowing owl occurrences and locations in the areas surveyed on behalf of the MBGP, Black Rock Geothermal Project, and Elmore North Geothermal Project. California Government Code Section 7922.000 provides that an agency

