

<b>DOCKETED</b>	
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Memorandum

**To:** Commissioner Noemi Gallardo, Presiding Member  
Commissioner Andrew McAllister, Associate Member

**Date:** October 31, 2023

**From:** California Energy Commission  
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**Subject: STATUS REPORT #1 FOR MORTON BAY GEOTHERMAL PROJECT (23-AFC-01)**

The Presiding Member's Scheduling Order for the Morton Bay Geothermal Project (MBGP) Proceeding (Scheduling Order) filed on September 15, 2023, orders the parties to file a status report on "October 31<sup>st</sup>, and by the last business day of every month thereafter". Staff is ordered to "include summaries of the progress of discovery in each monthly report, including descriptions of significant communications with other federal, state, local agencies, and tribal governments, and identify any factors that may impact the schedule of the proceeding. Status reports shall also include a description of the outcome of any public workshop or other meeting held during that month."

A Petition to Intervene, submitted by California Unions for Reliable Energy (CURE) was submitted on August 3, 2023; CURE was granted intervenor status on August 25, 2023.

**Summary of Progress of Discovery**

CEC staff filed Data Request (DR) Set 1 (TN 252095) on August 31, 2023; responses were due within 30 days, or by October 2, 2023. DR Set 1 sought information in the 12 technical areas below:

- |                                           |                                     |
|-------------------------------------------|-------------------------------------|
| 1. Air Quality and Greenhouse Gases       | 7. Project Description              |
| 2. Alternatives                           | 8. Public Health                    |
| 3. Biological Resources                   | 9. Socioeconomics                   |
| 4. Cultural and Tribal Cultural Resources | 10. Transportation                  |
| 5. Geology, Paleontology, and Minerals    | 11. Transmission System Engineering |
| 6. Land Use                               | 12. Water Resources                 |

CEC staff continues to meet with the applicant and our agency partners to discuss outstanding data needs, with particular attention paid to Air Quality, Alternatives, Land Use (farmland conversion concerns), Cultural Resources and Tribal Cultural Resources (mud pots and other archeological features), and Water Resources (water supply and power plant cooling alternatives).

On September 20, 2023, the applicant filed "Notice Pursuant to 20 CCR Section 1716(f) for CEC Staff's Data Request Set 1" (Notice) (TN 252328). The Applicant's Responses to DR Set 1 not subject to the objections and extensions of time requested in its Notice were received on October 3, 2023. Satisfactory responses were received for the technical areas of Biological Resources, Land Use, Project Description, Public Health, Socioeconomics, and Transportation. The technical areas below require additional follow up, as noted.

Air Quality and Greenhouse Gas and Public Health- The applicant is requesting until November 10, 2023, to respond to DRs 3, 4, 7, 10, 11, 12, 13, 73, 74, 75, 76, and 77. The Notice objects to DR 9 for an updated hydrogen sulfide gas 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. After meeting with staff of the Imperial County Air Pollution Control District (ICAPCD) on October 11 to gather additional data, CEC staff concluded that DR 9 is not required to proceed with the environmental analysis. CEC staff continues to analyze a subset of the remaining Air Quality, Public Health, and Greenhouse Gas responses and may request further clarification in a pending DR Set 3. CEC Air Quality staff met with the applicant on September 12, 2023, to discuss mobile test unit modeling details (DR 7).

Alternatives- CEC staff continues to develop alternatives for screening based on the potential for project impacts. Areas of focus for impacts include cultural resources, tribal cultural resources, agricultural land conversions, and water access. Specifically, in response to county-wide and state-wide water conservation concerns, staff has also been reviewing the proposed crossflow cooling tower system and investigating any viable water-saving alternatives to such cooling method. The applicant's responses to DRs 16–18 may require additional detail in a pending DR Set 3.

Cultural and Tribal Cultural Resources- DRs 33 and 34 request that inaccessible (currently farmed, under water, or fenced off) areas of the project site be surveyed, specifying 33–50 foot (or narrower) transects, final reports to be accompanied by full supporting data; both are in progress as the applicant needed an additional 30 days. DRs 27–32 and 34 are satisfied completely. The applicant indicated that select areas were resurveyed September 12–14, 2023, and that it expects to provide the requested information within 30 days of the completion of any additional surveys. The lack of firm due dates for this survey work could impact the schedule of the proceeding.

Geology, Paleontology, and Minerals- CEC staff highlights for the Committee that the response to DR 54 indicates that the applicant will submit a proposal in mid-October to move the MBGP power plant and ancillary features to the south/southwest approximately 915 feet to provide more distance between the plant and nearby mud pots, a geologic feature; however, all data requests (DRs 36–61) were answered

satisfactorily. Depending on the merits of the newly proposed location, staff would consider conducting a workshop to discuss this modification in a community setting, and potentially issuing further data requests.

Transmission System Engineering- Response to DR 93 is still in progress, as the applicant indicated that the requested California Independent System Operator (ISO) Affected System Study is the subject of a response to their inquiry to the Imperial Irrigation District (IID), with no specific timeline indicated. The final version of the November 7, 2022, IID System Impact Study stated that the proposed project output has the potential to impact the ISO-controlled grid, in addition to the IID system. Impacts to the ISO will be determined through the Affected System Study. Impacts identified through the study have the potential to trigger additional CEQA review and therefore affect project schedule.

Water Resources- DRs 100, 103, 104, and 110 remain outstanding and the subject of a pending DR Set 3, with the following explanation. According to the applicant, the Water Supply Assessment, which is expected to address CEC staff concerns surrounding regional water supply and reliability, and future set-asides for non-agricultural projects (including conservation measures), will be available for submission on October 31, 2023. Determining the feasibility of alternative supplies of water, beyond Colorado River water, including for power plant cooling, remains under investigation by CEC staff (see also Alternatives).

CEC staff's DR Set 2 (TN 252493), filed on October 3, 2023, contained follow up requests for information in three technical areas listed below. Responses to DR Set 2 are anticipated to be submitted on or about November 3, 2023.

- |                                           |                    |
|-------------------------------------------|--------------------|
| 1. Cultural and Tribal Cultural Resources | 2. Land Use        |
|                                           | 3. Water Resources |

### **Significant Communications with Other Government, Tribal Government, or Interested Entities**

Discussions with IID representatives and Imperial County regarding adequacy of necessary cooling water for the proposed facility are ongoing, and staff anticipates additional meetings as needed.

To date, five California Native American tribes have responded to CEC staff letters and emails, providing input on the proposed project or requesting consultation with the CEC. Staff anticipates holding individual or group meetings with respondent tribes in November 2023.

### **Factors That May Impact the Schedule**

As implemented in the Committee's Scheduling Order, the Preliminary Staff Assessment (PSA) for MBGP shall be filed no later than 60 days after the ICAPCD submits its Preliminary Determination of Compliance (PDOC), and no less than 14 calendar days from the filing of

the PSA in either the Elmore North Geothermal Project or Black Rock Geothermal Project proceeding.

The Scheduling Order also directs staff to provide a 30-day comment period for the review of the PSA pursuant to Cal. Code of Regulations, title 20, section 1742(c). Staff notes that, under CEQA section 15105(a), Draft EIRs submitted to the State Clearinghouse for review by state agencies require a 45-day comment period. This regulation is consistent with Pub. Resources Code section 21090(a) (amended, Ch.97, Statutes 2021), which requires a 45-day comment period for such EIRs. Since state agencies such as California Geologic Energy Management Division (CalGEM) have an interest in reviewing the PSA, which is an EIR alternative under CEC's Certified Regulatory Program, staff requests the committee further consider ordering a 45-day comment period for the MBGP PSA. Staff notes that this amended statute is outside of Chapters 3 and 4 of CEQA, which CEC's Certified Regulatory Program may pre-empt.

At this time, staff does not anticipate the need for committee intervention regarding discovery, but delays, as noted above, are possible.