

<b>DOCKETED</b>	
<b>Docket Number:</b>	23-AFC-01
<b>Project Title:</b>	Morton Bay Geothermal Project (MBGP)
<b>TN #:</b>	253112
<b>Document Title:</b>	Applicant's Notice Pursuant to CCR 1716(f) for CURE's Data Requests Set 1
<b>Description:</b>	N/A
<b>Filer:</b>	Amanda Cooley
<b>Organization:</b>	Ellison Schneider Harris & Donlan LLP
<b>Submitter Role:</b>	Applicant Representative
<b>Submission Date:</b>	11/14/2023 3:14:55 PM
<b>Docketed Date:</b>	11/14/2023

**THE STATE OF CALIFORNIA**

**State Energy Resources Conservation  
and Development Commission**

In the Matter of: )  
Application for Certification for the )  
Morton Bay Geothermal Project )  
 )  
\_\_\_\_\_ )

Docket No. 23-AFC-01

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

Samantha G. Neumyer  
Jessica Melms  
Ellison Schneider Harris & Donlan LLP  
2600 Capitol Avenue, Suite 400  
Sacramento, CA 95816  
[sgn@eslawfirm.com](mailto:sgn@eslawfirm.com)  
[jmelms@eslawfirm.com](mailto:jmelms@eslawfirm.com)  
(916) 447-2166

Attorneys for Applicant

**STATE OF CALIFORNIA  
Energy Resources Conservation  
and Development Commission**

In the Matter of:	)	
	)	
Application for Certification for the	)	Docket No. 23-AFC-01
Morton Bay Geothermal Project	)	
_____	)	

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

Pursuant to Section 1716(f) of the California Energy Commission’s (“CEC’s”) regulations, Morton Bay Geothermal LLC (the “Applicant”) hereby provides this notice that additional time is required to respond to the California Unions for Reliable Energy’s (“CURE”) *Data Requests Set 1 for Morton Bay Geothermal Project (23-AFC-01)*, which were filed on October 25, 2023 (“Data Requests Set 1”)<sup>1</sup> due to coordination of work schedules and travel of employees and consultants working on this project related to the Thanksgiving holiday. Additionally, the Applicant hereby provides notice of objection to certain data requests set forth in Data Request Set 1. Without waiving any of the objections herein, the Applicant reserves the right to provide responses, in whole or in part, to some or all of the data requests identified below.

**I. NEED FOR ADDITIONAL TIME TO RESPOND**

A brief period of additional time is required to respond to Data Request Set 1 because of the Thanksgiving holiday and associated work schedules and travel of personnel. The Applicant will provide responses to Data Requests Set 1 on or before December 1, 2023.

**II. NOTICE OF OBJECTION**

Section 1716(b) of the CEC’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 application for certification (“AFC”).<sup>2</sup> Section 1716 does not require that an applicant “perform research or analysis on behalf of the requesting

---

<sup>1</sup> TN#: 252740.

<sup>2</sup> 20 C.C.R. § 1716(b).

party.”<sup>3</sup> In evaluating whether a data request involves “discoverable information” or “undiscoverable analysis or research,” the CEC typically considers four factors: (1) the relevance of the information; (2) whether the information is available to the applicant, or from some other source, or whether the information has been provided in some other form; (3) whether the request is for data, analysis, or research; and (4) the burden on the applicant to provide the data.<sup>4</sup> The Applicant objects to those data requests that request information that is not reasonably available to the Applicant, or which ask the Applicant to prepare analyses or conduct research on behalf of CURE. The Applicant also objects to those data requests that are neither relevant to the proceeding nor reasonably necessary to make any decision on the AFC. The Applicant objects to the data requests below as not meeting the requirement of Section 1716(b).

**A. Data Request 22: Provide the metadata to the type of stress analysis software programs, including, but not limited to, numerical versus analytical, and type of numerical approach, e.g., finite element method.**

The Applicant objects to Data Request 22 as vague, overbroad, and burdensome, particularly because it is unclear what is meant by “metadata.” The Applicant also objects to Data Request 22 as potentially requesting information that is confidential, privileged, and that is neither relevant nor reasonably necessary to make any decision on the AFC. Without waiving this objection, the Applicant will provide a limited response to this data request.

**B. Data Request 41: State whether the proposed IID transmission line will import power from CAISO into the IID grid.**

The Applicant cannot speak for the Imperial Irrigation District (“IID”) with respect to the operation of its transmission system. Therefore, the Applicant objects to Data Request 41 as requesting information that is not reasonably available to the Applicant.

Furthermore, the operation of the transmission line by IID is outside the scope of this proceeding. The IID network transmission line is beyond the first point of interconnection for the Morton Bay Geothermal Project (the “Project” or “MBGP”) and will not be operated by the Applicant. Therefore, information regarding the operation of the IID transmission line, including potential imports, are neither relevant nor reasonably necessary to make any decision on the AFC.

---

<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).

<sup>4</sup> *Id.*

**C. Data Request 42: Provide copies of any and all environmental studies, reports, and/or analyses prepared pursuant to the California Environmental Quality Act (“CEQA”) for the proposed IID transmission line.**

The Applicant objects to Data Request 42 as requesting information that is not reasonably available to the Applicant, particularly because it is our understanding that the specific route for the IID transmission line has not yet been finalized. The Applicant also objects to Data Request 42 as vague, overbroad, burdensome, and potentially requesting information that is confidential, privileged, or constitutes critical energy/electrical infrastructure information. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>5</sup> To the extent that such environmental studies, reports, and/or analyses prepared pursuant to CEQA for the proposed IID transmission line exist and are subject to production under the Public Records Act, such information will be available to CURE from that source.

**D. Data Request 43: Provide copies of any and all environmental studies, reports, and/or analyses prepared pursuant to CEQA for the proposed substation upgrades.**

The Applicant objects to Data Request 43 as requesting information that is not reasonably available to the Applicant because it is our understanding that the specific substation upgrades have not yet been finalized. The Applicant also objects to Data Request 43 as vague, overbroad, burdensome, and potentially requesting information that is confidential, privileged, or constitutes critical energy/electrical infrastructure information. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>6</sup> To the extent that such environmental studies, reports, and/or analyses prepared pursuant to CEQA for the proposed IID substation upgrades exist and are subject to production under the Public Records Act, such information will be available to CURE from that source.

**E. Data Request 44: Describe the design, construction and operation of any electric facilities, including IID powerlines, substations, switchyards, or other transmission equipment, which will be constructed or modified to transmit electrical power from the proposed powerplant to the CAISO controlled grid.**

The Applicant objects to Data Request 44 as requesting information that has been designated as confidential by the CEC and IID<sup>7</sup>, and as vague, overbroad, burdensome, and potentially requesting information that is confidential, privileged, or constitutes critical energy/electrical infrastructure

---

<sup>5</sup> TN#: 252869.

<sup>6</sup> TN#: *Id.*

<sup>7</sup> TN#: 252652.

information. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>8</sup> To the extent that information regarding the design, construction and operation of any electric facilities, including IID powerlines, substations, switchyards, or other transmission equipment, which will be constructed or modified to transmit electrical power from the proposed powerplant to the California Independent System Operator (“CAISO”)-controlled grid exists and is subject to production under the Public Records Act, such information will be available to CURE from that source. Without waiving this objection, the Applicant will provide a limited response to this request as part of its response to *Data Request Set 1*.

**F. Data Request 45: Describe how the route and additional transmission facilities were selected, including consideration given to the engineering constraints, environmental impacts, resource conveyance constraints, and electric transmission constraints.**

The Applicant objects to Data Request 45 as requesting information that is not reasonably available to the Applicant, particularly because it is our understanding that the specific route for the IID transmission line has not yet been finalized. The Applicant objects to Data Request 45 as vague, overbroad, burdensome, and potentially requesting information that is confidential, privileged, or constitutes critical energy/electrical infrastructure information. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>9</sup> To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

**G. Data Request 46: Describe the audible noise from existing IID switchyards that would be affected by the MBGP.**

The Applicant does not possess information regarding the audible noise from existing IID switchyards. Therefore, the Applicant objects to Data Request 46 as requesting information that is not reasonably available to the Applicant.

The Applicant also objects to the request for audible noise levels of existing IID switchyards as vague, overbroad, burdensome, and neither relevant to the proceeding nor reasonably necessary to make any decision on the AFC. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>10</sup> To the extent that such environmental studies, reports, and/or analyses prepared pursuant to CEQA for the proposed IID transmission line exist and are

---

<sup>8</sup> TN#: 252869.

<sup>9</sup> TN#: *Id.*

<sup>10</sup> TN#: *Id.*

subject to production under the Public Records Act, such information will be available to CURE from that source.

**H. Data Request 47: Describe the audible noise from existing IID overhead transmission lines that would be affected by the MBGP.**

The Applicant does not possess information regarding the audible noise from existing IID overhead transmission lines. Therefore, the Applicant objects to Data Request 47 as requesting information that is not reasonably available to the Applicant.

The Applicant also objects to the request for audible noise levels of existing IID overhead transmission lines as vague, overbroad, burdensome, and neither relevant to the proceeding nor reasonably necessary to make any decision on the AFC. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>11</sup> To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

**I. Data Request 48: Estimate the future audible noise levels that would result from existing and proposed IID switchyards, calculated at the property boundary for the switchyards.**

The Applicant does not possess information regarding future audible noise levels from existing IID switchyards. Therefore, the Applicant objects to Data Request 48 as requesting information that is not reasonably available to the Applicant and requires the Applicant to conduct studies and analyses on behalf of CURE.

The Applicant also objects to the request for estimates of future audible noise levels of existing IID switchyards as vague, overbroad, burdensome, and neither relevant to the proceeding nor reasonably necessary to make any decision on the AFC. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>12</sup> To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

**J. Data Request 49: Estimate the future audible noise levels that would result from existing and proposed IID transmission lines, calculated at the edge of the rights-of-way for transmission lines.**

---

<sup>11</sup> TN#: *Id.*

<sup>12</sup> TN#: *Id.*

The Applicant does not possess estimates regarding future audible noise levels from existing and proposed IID transmission lines. Therefore, the Applicant objects to Data Request 49 as requesting information that is not reasonably available to the Applicant and that requires the Applicant to conduct studies and analyses on behalf of CURE.

The Applicant also objects to the request for audible noise levels of existing IID transmission lines as vague, overbroad, burdensome, and neither relevant to the proceeding nor reasonably necessary to make any decision on the AFC. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>13</sup> To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

**K. Data Request 50: Provide a discussion of the impacts to biological resources along the proposed IID transmission lines which are necessary for the MBGP to interconnect to the CAISO controlled grid.**

The Applicant objects to Data Request 50 as requesting information that is not reasonably available to the Applicant, particularly because it is our understanding that the specific route for the IID transmission line has not yet been finalized. The Applicant also objects to Data Request 50 as vague, overbroad, and burdensome. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>14</sup> To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

**L. Data Request 51: Provide a discussion of the impacts to biological resources at sites requiring upgrades to IID substations which are necessary for the MBGP to interconnect to the CAISO controlled grid.**

The Applicant objects to Data Request 51 as requesting information that is not reasonably available to the Applicant, particularly because it is our understanding that the specific requirements for the IID substation upgrades have not yet been finalized. The Applicant also objects to Data Request 51 as vague, overbroad, and burdensome. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>15</sup> To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

---

<sup>13</sup> TN#: *Id.*

<sup>14</sup> TN#: *Id.*

<sup>15</sup> TN#: *Id.*



**M. Data Request 52: Estimate the existing electric magnetic fields from the proposed IID transmission lines which are necessary for the MBGP to interconnect to the CAISO controlled grid.**

The Applicant does not possess the information requested in Data Request 52. The Applicant objects to Data Request 52 as requesting information that is not reasonably available to the Applicant, and as vague, overbroad, burdensome, and neither relevant nor reasonably necessary for a decision in this proceeding. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>16</sup> To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

**N. Data Request 53: Estimate the existing electric and magnetic field from the proposed IID substation upgrades which are necessary for the MBGP to interconnect to the CAISO controlled grid.**

The Applicant does not possess the information requested in Data Request 53. Therefore, the Applicant objects to Data Request 53 as requesting information that is not reasonably available to the Applicant and that requires the Applicant to conduct studies and analyses on behalf of CURE.

The Applicant also objects to Data Request 53 as vague, overbroad, burdensome, and neither relevant to the proceeding nor reasonably necessary to make any decision on the AFC. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>17</sup> To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

**O. Data Request 54: Estimate the future electric and magnetic fields that would be created by the proposed IID transmission lines which are necessary for the MBGP to interconnect to the CAISO controlled grid.**

The Applicant does not possess the information requested in Data Request 54. Therefore, the Applicant objects to Data Request 54 as requesting information that is not reasonably available to the Applicant and that requires the Applicant to conduct studies and analyses on behalf of CURE.

The Applicant also objects to Data Request 54 as vague, overbroad, burdensome, and neither relevant to the proceeding nor reasonably necessary to make any decision on the AFC. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>18</sup>

---

<sup>16</sup> TN#: *Id.*

<sup>17</sup> TN#: *Id.*

<sup>18</sup> TN#: *Id.*

To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

**P. Data Request 55: Estimate the future electric and magnetic fields that would be created by the proposed IID substation upgrades which are necessary for the MBGP to interconnect to the CAISO controlled grid.**

The Applicant does not possess the information requested in Data Request 55. Therefore, the Applicant objects to Data Request 55 as requesting information that is not reasonably available to the Applicant and that requires the Applicant to conduct studies and analyses on behalf of CURE.

The Applicant also objects to Data Request 55 as vague, overbroad, burdensome, and neither relevant to the proceeding nor reasonably necessary to make any decision on the AFC. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>19</sup> To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

**Q. Data Request 56: Describe impacts to air quality from construction associated with upgrades to existing IID substations which are necessary for the MBGP to interconnect to the CAISO controlled grid.**

The Applicant does not possess the information requested in Data Request 56. Therefore, the Applicant objects to Data Request 56 as requesting information that is not reasonably available to the Applicant and that requires the Applicant to conduct studies and analyses on behalf of CURE.

The Applicant also objects to Data Request 56 as vague, overbroad, burdensome, and neither relevant to the proceeding nor reasonably necessary to make any decision on the AFC. The Applicant also understands that CURE has submitted requests for public records related to the MBGP to IID.<sup>20</sup> To the extent that such information exists and is subject to production under the Public Records Act, such information will be available to CURE from that source.

**R. Data Request 58: Describe the intrinsic permeability and fracture aperture and density with regards to the feasibility of fluid injection into the competent subsurface formation.**

The Applicant objects to Data Request 58 as requesting information that is not reasonably available to the Applicant as the injection wells have not been drilled yet and because it requires the Applicant to conduct studies and analyses on behalf of CURE. Furthermore, the Applicant objects to

---

<sup>19</sup> TN#: *Id.*

<sup>20</sup> TN#: *Id.*

Data Request 58 as conducting the studies and analyses requested by CURE regarding the feasibility of fluid injection would require the use of the Applicant's privileged trade secret information. The Applicant also objects to Data Request 58 as vague, overbroad, burdensome. Finally, the Applicant objects to Data Request 58 as neither relevant to the proceeding nor reasonably necessary to make any decision on the AFC because the CEC has already made its determination regarding the adequacy of the geothermal resource, which includes the ability to inject the geothermal fluid.<sup>21</sup>

**S. Data Request 59: Provide all laboratory data sheets that report concentrations of radioactive elements in geothermal brines and emissions from brine processing equipment (U, Th, Ra, Cs, Sr) that will be used by the MBGP.**

The Applicant does not possess the information requested in Data Request 59 and will not have such information until the MBGP is operational. Therefore, the Applicant objects to Data Request 59 as requesting information that is not reasonably available to the Applicant. The Applicant also objects to Data Request 59 as vague, overbroad, and burdensome. Without waiving these objections, the Applicant will provide information regarding the expected concentrations of radioactive elements in geothermal brines and potential emissions of those elements.

**T. Data Request 73: Describe the chemical composition data for the filter cake and provide all supporting documentation, including laboratory data sheets.**

The Applicant does not possess the information requested in Data Request 73 and will not have such information until the MBGP is operational. Therefore, the Applicant objects to Data Request 73 as requesting information that is not reasonably available to the Applicant. The Applicant also objects to Data Request 73 as vague, overbroad, and burdensome. Without waiving these objections, the Applicant will provide information regarding the expected chemical composition for the filter cake.

**U. Data Request 74: Describe the chemical composition data for the cooling water and provide all supporting documentation, including laboratory data sheets.**

The Applicant does not possess the information requested in Data Request 74 and will not have such information until the MBGP is operational and the cooling water is available for testing. Therefore, the Applicant objects to Data Request 74 as requesting information that is not reasonably available to the Applicant. The Applicant also objects to Data Request 74 as vague, overbroad, and

---

<sup>21</sup> TN#: 250451.

burdensome. Without waiving these objections, the Applicant will provide information regarding the expected chemical composition data for the cooling water.

**V. Data Request 75: Describe the chemical composition data for the clarifier brine and provide all supporting documentation, including laboratory data sheets.**

The Applicant does not possess the information requested in Data Request 75 and will not have such information until the MBGP is operational and the clarifier brine is available for testing. Therefore, the Applicant objects to Data Request 75 as requesting information that is not reasonably available to the Applicant. The Applicant also objects to Data Request 75 as vague, overbroad, and burdensome. Without waiving these objections, the Applicant will provide information regarding the expected chemical composition data for the clarifier brine.

**W. Data Request 76: Describe the chemical composition data for the clean brine and provide all supporting documentation, including laboratory data sheets.**

The Applicant does not possess the information requested in Data Request 76 and will not have such information until the MBGP is operational and the clean brine is available for testing. Therefore, the Applicant objects to Data Request 76 as requesting information that is not reasonably available to the Applicant. The Applicant also objects to Data Request 76 as vague, overbroad, and burdensome. Without waiving these objections, the Applicant will provide information regarding the expected chemical composition data for the clean brine.

**X. Data Request 78: Describe all feasible mitigation for construction GHG emissions.**

The Applicant objects to Data Request 78 as vague, overbroad, and burdensome by requesting descriptions of “all” feasible mitigation measures. Without waiving these objections, the Applicant will provide information regarding proposed measures to mitigate construction greenhouse gas emissions.

**Y. Data Request 81: Provide the well construction design details (e.g. well sizing/diameter, plugging/design near subsurface).**

The Applicant objects to Data Request 81 as requesting information that constitute well records subject to confidential treatment by California Department of Conservation, Geologic Energy Management Division (“CalGEM”),<sup>22</sup> and as vague, overbroad, and potentially requesting information

---

<sup>22</sup> TN#: 252817.

that is confidential and/or privileged trade secret information. Without waiving this objection, the Applicant will provide limited information responsive to this request.

**Z. Data Request 84: If geophysical logs of exploratory boreholes and/or existing production and injection wells were evaluated to inform MBGP's design, construction, and/or operations, please specify which wells were considered in this analysis, summarize the results from this analysis, and provide all documents relied upon.**

The Applicant objects to Data Request 84 as requesting information that constitute well records subject to confidential treatment by CalGEM,<sup>23</sup> and as vague, overbroad, burdensome, and potentially requesting information that is confidential and/or privileged trade secret information. The Applicant also objects on the basis that the information requested is neither relevant nor reasonably necessary for a decision in this proceeding. Without waiving this objection, the Applicant will provide limited information responsive to this request.

**AA. Data Request 88: Provide all documentation regarding the potential for cavity formation in producing rock.**

The Applicant objects to Data Request 88 as vague, overbroad, burdensome, and as requesting information that is neither relevant nor reasonably necessary for a decision in this proceeding. Without these objections, the Applicant will provide a limited response to this data request.

**BB. Data Request 97: Describe the results and conclusions from the lithium recovery activities funded by the CEC and DOE grants. If efforts remain ongoing, please summarize these continuing projects.**

Neither lithium recovery nor any of the projects identified in the background to Data Request 97 are part of the proposed Project. Therefore, the Applicant objects to Data Request 97 as requesting information that is neither relevant nor reasonably necessary for a decision in this proceeding.

Dated: November 14, 2023

Respectfully submitted,

ELLISON SCHNEIDER HARRIS & DONLAN L.L.P.

By  \_\_\_\_\_

Samantha G. Neumyer  
Jessica Melms  
2600 Capitol Avenue, Suite 400  
Sacramento, CA 95816

---

<sup>23</sup> TN#: *Id.*

[sgn@eslawfirm.com](mailto:sgn@eslawfirm.com)  
[jmelms@eslawfirm.com](mailto:jmelms@eslawfirm.com)  
(916) 447-2166

Attorneys for Applicant