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State of California

California Natural Resources Agency

Memorandum

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

Date: February 29, 2024

From: California Energy Commission
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Subject: STATUS REPORT #5 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 31st, and by the last business day of every month thereafter." California Energy Commission staff (CEC staff) is ordered to "include summaries of the progress of discovery in each monthly report, including descriptions of significant communications with other federal, state, and 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."

Summary of Progress of Discovery and Known Issues

Status of Data Requests/Responses:

On January 26, 2024, the applicant filed the Morton Bay Geothermal Project Repeated Application for Confidential Designation for revised Data Response 94 [Revised Transmission System Impact Study] (TN 254207).

On February 1, 2024, the applicant filed Applicant's Notice Pursuant to 20 CCR Section 1716(f) for CEC's Data Requests Set 4 (TN 254294).

On February 2, 2024, a Petition to Intervene by United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) Region 6 was filed (TN 254304).

On February 2, 2024, the applicant filed a Notice of Decision by the ICAPCD¹ to Issue a Determination of Compliance to Elmore North Geothermal, LLC (TN 254307).

¹ Imperial County Air Pollution Control District

On February 12, 2024, the applicant filed Applicant's Notice Pursuant to 20 CCR Section 1716(f) for CURE's Data Requests Set 4 (TN 254411).

On February 12, 2024, the applicant filed Morton Bay Geothermal Project Data Request Set 4 Responses (TN 254419).

On February 16, 2024, the applicant filed Morton Bay Geothermal Project Data Response Set 1 (Revised Response to Data Request 31) (TN 254531).

On February 21, Applicant filed its response to CURE's Data Requests Set 4 (Responses to Data Requests 252 to 279) (TN 254603).

On February 26, 2024, Hudson Ranch Power 1 [Cyrq] filed Hudson Ranch Power 1 Comments- Morton Bay Geothermal Project Impact Screening Study (TN 254691).

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

A site visit was planned for February 9, 2024, but due to limited access, the visit was only partially successful. An in-field intertribal meeting facilitated by CEC staff occurred on February 26, 2024. The meeting included representatives from multiple tribes, a representative from the Native American Land Conservancy, the applicant's representative, and a paid expert working with a consulting tribe on documenting a related tribal cultural landscape. Items discussed included project site physical features, and nearby cultural landmarks. The meeting informed and supported staff's understanding of the scope and complexity of the impacts arising from all three proposed geothermal projects. Specifically, the three projects encompass substantial acreage which necessitates more extensive data gathering to understand impacts than would be anticipated for a single site facility. Action items remain to be completed following the meeting. CEC staff continues to work to overcome issues with physical access to sites and/or portions of sites. CEC staff's estimate of the end of May 2024, in the January Status Report, to complete the Cultural and Tribal Cultural Resources section of the Preliminary Staff Assessment (PSA) remains accurate.

Factors That May Impact the Schedule

Ongoing necessary Cultural/Tribal Cultural Resource consultation and impact evaluation, outstanding data responses, outstanding factual questions regarding water supply, and new and unanticipated information filed in the MBGP docket regarding the sustainability of the geothermal resource are impacting the established schedule for publication of the PSA. The MBGP Preliminary Determination of Compliance (PDOC) was filed on February 2, 2024 (TN 254307), establishing a PSA due date of no later than April 2, 2024. In Applicant's DRR Set 4 filed on February 12 (TN 254419) it requested an extension to March 11 to provide requested information regarding air modeling. In another instance, responses to water resources data requests were unsatisfactory; CEC staff is in the process of getting clarification on water supply from Imperial Irrigation District (IID) and has a list of nine questions to be addressed on this issue. Staff will be meeting with IID on March 7, 2024, to better understand how IID's water conservation program can create water and provide

it to the project on a long-term basis. Information from that meeting may necessitate additional engagement with IID. Staff estimated in the January Status Report that to meet the calculated PSA due date of April 2 (60 days from PDOC filing), the final remaining PSA sections would need to be completed by March 22. Given the scope of the outstanding information and the IID availability to meet, staff will not be able to meet the 60-day deadline of April 2, 2024.

In addition to the Cultural/Tribal Cultural Resources, Air Quality, and Water Resources outstanding issues outlined above, the PSA section for Alternatives will likely be delayed, since it is dependent on the results of the ongoing water supply factual determinations.

Staff continues to work to develop a robust Alternatives discussion based largely on the data in the applicant's Alternatives and Water Resources responses within DRR Set 4 as well as from any information provided by IID on water supply and long-term reliability. Based on current information available to staff, the mid-May estimate to complete the Alternatives PSA section is still the most accurate available.

In addition to the section delays mentioned above, there is also an ongoing delay to evaluate newly submitted and unexpected information regarding the geothermal resource received into the MBGP docket on February 26, 2024. Non-party Cyrq, operator of the Hudson Ranch Power 1 geothermal plant located on an adjacent property to Morton Bay, submitted a detailed report written by Geothermal Resource Group (TN 254691). The report describes potential impacts to Hudson Ranch specifically resulting from the three proposed geothermal plants before the CEC. This information needs to be evaluated and verified to determine whether MBGP may further impact the larger resource in ways previously unaccounted for. Staff will need to consult with the California Geologic Energy Management Division (CalGEM) on the issue of well interference. Finally, key information necessary to ensure staff can develop appropriate waste discharge requirements for the three projects is expected from the Regional Water Quality Control Board by early April, further necessitating an extension for the publishing of the PSA.

CEQA Public Comment Period

The Scheduling Order also directs staff to provide a 30-day comment period for the review of the PSA pursuant to California Code of Regulations, title 20, section 1742(c). Staff notes that, under CEQA, draft environmental impact reports (EIRs) submitted to the State Clearinghouse for review by state agencies require a 45-day comment period. (Cal. Code Regs., title 14, § 15105(a).) This regulation is consistent with Public Resources Code, section 21091(a) (amended, Ch.97, Statutes 2021), which requires a 45-day comment period for such EIRs. Since state agencies such as CalGEM have an interest in reviewing the PSA, which is an EIR substitute under the CEC's Certified Regulatory Program, staff believes a 45-day comment period for the MBGP PSA is required by CEQA. Staff notes that Public Resources section 21091 is outside of Chapters 3 and 4 of CEQA, which are the only portions of CEQA from which the CEC's Certified Regulatory Program is exempt.

PSA Due Date

For the foregoing reasons, staff recognizes and brings to the attention of the Committee that the current Scheduling Order requiring the MBGP PSA to be filed by April 2, 2024, will

not be met by staff. Staff will be filing a motion to amend the Scheduling Order seeking: 1) to extend the due date until June 25, 2024, and 2) to revise the duration of the comment period to 45 days.