CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814-5512
www.energy.ca.gov

12-JD-02

DOCKET
12-JD-01
DATE FEB 14 2012
RECD. FEB 15 2012

February 14, 2012

Jeffery D. Harris
Ellison, Schneider & Harris LLP
2600 Capitol Ave
Sacramento, CA 95816

Re: Application for Confidential Designation: Geothermal Facility Engineering Information, Wild Horse and Buckeye Generating Projects.
Docket No. 12-JD-01, 12-JD-02

Dear Mr. Harris:

On February 3, 2012, Wild Horse LLC and Buckeye LLC (Applicant) filed two applications for confidentiality to the above-captioned dockets relating to the Wild Horse and Buckeye geothermal facilities. The applications seek confidentiality relating to facility design, operating characteristics and information related to steam field resources.

The applications state that the identified technical plant and facility design information contains confidential trade secrets and commercially sensitive proprietary information relating to the Applicant's unique geothermal technology. The technical information would provide valuable engineering data to competitors and would result in a loss of competitive advantage for the Applicant.

A properly filed Application for Confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "If the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the [Energy] Commission to keep the record confidential." The California Public Records Act allows for the non-disclosure of trade secrets. (Gov. Code, § 6254(k); Evid. Code, § 1060.) The California courts have traditionally used the following definition of trade secret:

> a trade secret may consist of any formula, pattern, device or compilation of information which is used in one's business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it. . . .

(*Uribe v. Howe* (1971) 19 Cal.App.3d 194, 207-208, from the Restatement of Torts, vol. 4, § 757, comments b, p.5.)

California Code of Regulations, title 20, section 2505(a)(1)(D) states that if the applicant for confidential designation believes that the record should not be disclosed because it contains trade secrets, or its disclosure would otherwise cause loss of a competitive advantage, the application shall state: 1) the specific nature of the advantage; 2) how the advantage would be lost; 3) the value of the information to the applicant; and 4) the ease or difficulty with which the information could be legitimately acquired or duplicated by others.

Applicant has made a reasonable claim that the law allows the Commission to keep the identified documents confidential on the grounds that they contain trade secrets and proprietary information. The information has been developed exclusively by Applicant, contains information that is not public, and has the potential for harming Applicant's business.

Applicant requests that the information be kept confidential for the life of the facility and that the report represents the maximum extent to which information can be aggregated and masked.

For the above reasons, your request for confidential designation of the listed materials is granted. The data will remain confidential for the life of the facility.

Be advised that persons may petition to inspect or copy records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506. If you have any questions concerning this matter, please contact Jared Babula, Staff Counsel, at (916) 651-1462.

Sincerely,

Robert Oglesby
Executive Director

cc: Docket Unit
Shahab Khoshmashrab