

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

April 17, 2006

DOCKET 05-SDO-2
DATE APR 17
RECD. APR 17

Carrie A. Downey
Counsel for Imperial Irrigation District
Horton, Knox, Carter & Foote
895 Broadway
El Centro, CA 92243

RE: APPLICATION FOR DESIGNATION OF CONFIDENTIALITY
Docket No. 05-SDO-2

Dear Ms. Downey:

On March 16, 2006, Imperial Irrigation District (IID) filed an updated form S-1 for use in the Energy Commission's Summer 2006 Electricity Supply and Demand Outlook Report. As part of that filing, IID is seeking a designation of confidentiality for form S-1.

IID's application for confidentiality (application) states, in part:

The Imperial Irrigation District (IID) is requesting confidential designation for the entire contents of the form S-1 update provided by IID on February 22, 2006. . . . IID believes that two years from today would allow IID to complete its planning process and contract for anticipated short and long term energy purchases. . . . The information about any future needs, if any, the IID has for Summer 2006 should qualify as a trade secret under the CPRA (Gov. Code, § 6254(k), Evid. Code[,] § 1060) as "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. . . ." Because IID has ongoing requests for proposals for future resource needs, disclosing this information would allow those entities bidding into the RFP to have an advantage.

The California Public Records Act allows for 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

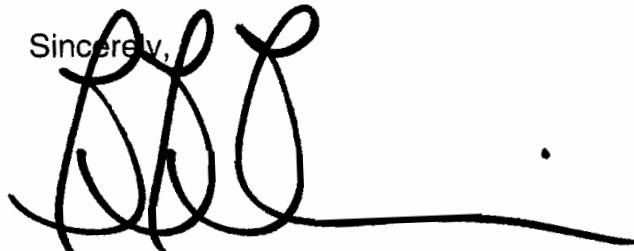
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use it. . . . (*Uribe v. Howie* (1971) 19 Cal.App.3d 194, 207-208, 96 Cal.Rptr. 493, 500-501, from the Restatement of Torts, vol. 4, sec. 757, comment b, p. 5.)

IID's application of March 16, 2006, makes a reasonable argument under the Energy Commission's regulations for classifying the information contained in your application as confidential since it could provide your competitors with a competitive advantage if made public. (Gov. Code, § 6254 (k); Cal. Code Regs., tit. 20, § 2505.) Accordingly, all the information contained in form S-1 will be given confidentiality for two years from the date of this letter.

The procedures and criteria for appealing this decision are set forth in the California Code of Regulations, title 20, section 2505. If you have any further questions regarding this decision, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

B. B. BLEVINS
Executive Director

cc: Docket Unit