

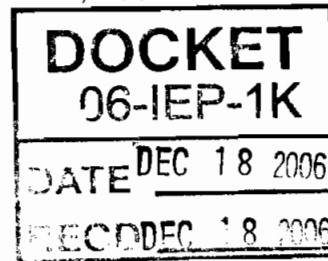
## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512



December 18, 2006

James L. McArthur  
Elk Hills Power, LLC  
P. O. Box 460  
4026 Skyline Road  
Tupman, CA 93276



RE: **Application for Confidentiality, Elk Hills Power Plant,  
Docket No. 06-IEP-1K**

Dear Mr. McArthur:

On December 11, 2006, Elk Hills Power, LLC (Elk Hills) submitted data to the California Energy Commission (Energy Commission) for use in the Energy Commission's 2007 Integrated Energy Policy Report (IEPR). As part of that submittal, Elk Hills filed an application seeking a designation of confidentiality "for information regarding the as-built capital and as-operating project costs of the Elk Hills power plant ("Cost Data")." Specifically, Elk Hills is seeking confidentiality "for a period of not less than five years" for the following items:

As-Built Capital Cost Information Request Form:

- Item 4-Total Capital Cost of Facility
- Item 11-Total Construction Costs (Labor/Equipment, etc.)
- Item 12-Cost of Site Preparation
- Item 14-Cost of Licensing/Permitting Project
- Item 16-Cost of Emission Reduction Credits (ERCs) or Other Offsets

Operating Cost Information Request Form:

- Item 1-Total Annual Operating Costs
- Item 5-Natural Gas Average Annual Price
- Item 7-Staffing
- Item 8-Ongoing Operating Costs
- Item 9-Estimate of Actual Annual Maintenance Costs

Elk Hills states, in pertinent part:

The completed forms requested by the [Energy] Commission contain information that is commercially sensitive, . . . inasmuch as it relates to the development and ongoing operations of an independent power producer selling electric energy and/or capacity to customers in California. . . . In addition, the Confidential information . . . is a corporate financial record . . . . [d]isclosure of the Confidential Information [listed above] would provide Elk Hills' competitors,

suppliers and customers with valuable insights into its operational strengths and weaknesses, and would put Elk Hills at an unfair disadvantage as it competes for these sales or for goods and services to be provided by potential suppliers. . . . The nature of the Confidential Information is such that Elk Hills would not ordinarily share this information with its customers, competitors, or other third parties.

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, § 1040.) 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.)

The Cost Data that you have submitted meet the definition of trade secret for purposes of the Public Records Act and for granting confidentiality. Disclosure of this information would place Elk Hills at an economic disadvantage if made public. Non-disclosure of this information is expressly protected in the Public Records Act as a trade secret. Therefore, Elk Hills's December 11, 2006, confidentiality application is granted in its entirety. The Cost Data will be kept confidential for a period of five years from the date of this letter.

Finally, persons may petition to inspect or copy those 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 further questions concerning this application for confidentiality, please call Fernando De Leon, Senior Staff Counsel at (916) 654-4873.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. B. Blevins', with a long horizontal line extending to the right.

B. B. Blevins  
Executive Director

cc: Anitha Rednam  
Docket Unit