CALIFORNIA ENERGY COMMISSION
1516 NINTH STREET
SACRAMENTO, CA 95814-5512

August 8, 2006

Jack McNamara
Manager
Esmeralda Truckhaven Geothermal, LLC
28327 Driver Ave.
Agoura Hills, CA 91301

RE: **Application for Confidential Designation, CEC-SEP-4 (Seller) SEP Application, Docket No. 03-RPS-1078**

Dear Mr. McNamara:

This is a follow up to our earlier conversation concerning the Application for Confidential Designation (Application) submitted by Esmeralda Truckhaven Geothermal LLC (Esmeralda). This Application was submitted to the Energy Commission pursuant to Title 20 of the California Code of Regulations, section 2505, and was received by the Energy Commission's Docket Unit on July 12, 2006. The Application seeks the confidential designation of various information included in Esmeralda's CEC-SEP-4 (Seller) SEP Application. This application includes the completed CEC-SEP-4 form as well as supporting Excel Spreadsheets.

As I indicated, I have reviewed Esmeralda's Application with Energy Commission staff and need additional information as identified below in order for the Energy Commission to fully evaluate the Application. This information is requested pursuant to Title 20, section 2505 (a)(3)(A).

Information Provided in CEC-SEP-4 Form

Question 7 - Bid Contract Price and Contract Price

Esmeralda requests that the bid price and contract price information reported in Question 7 (a) and (b) of the CEC-SEP-4 form be kept confidential for "a period of three (3) years," but does not indicate when this three-year period is to begin. Does the three-year period begin on the date the Energy Commission approves the Application (assuming it is approved), on the date the underlying power purchase contract with San Diego Gas & Electric Company (SDG&E) is approved by the California Public Utilities Commission, or some other date. Please indicate in your response the beginning and end dates for the three-year period.

In addition, please explain how Esmeralda would be disadvantaged if information concerning its bid and contract price were publicly disclosed. Section 2 of the Application indicates that Esmeralda would be greatly disadvantaged if competitors were allowed to see (and thereby use) the non-standard contract terms negotiated

between Esmeralda and SDG&E. Arguably, disclosure of these terms could affect SDG&E's pending and future contract negotiations with other renewable energy developers. However, it is unclear how the disclosure of these non-standard contract terms could disadvantage Esmeralda given that it has already entered into a contract with SDG&E. Section 3 of the Application similarly suggests that Esmeralda would be disadvantaged if other renewable energy developers were allowed to see Esmeralda's "inside" pricing and business information and use this information in "RPS bids opposing Esmeralda's RPS bids." Since Esmeralda has already entered into a contract with SDG&E it is unclear how other RPS bids could oppose Esmeralda's bid or contract with SDG&E, unless Esmeralda's contract with SDG&E is ultimately rejected or canceled and Esmeralda is forced to bid in a future RPS contract solicitation.

Question 8 – Supplemental Energy Payments

Esmeralda requests that the supplemental energy payment information reported in Question 8 (a), (b), (c) and (d) of the CEC-SEP-4 form be kept confidential for "a period of three (3) years," but does not indicate when this three-year period is to begin. Please indicate in your response the beginning and end dates for the three-year period.

Please confirm that a clerical mistake was made with respect to the units used in the responses to Question 8 (a), (c) and (d). The responses identify "$" units, instead of "¢/kWh" units.

Please confirm whether the slight difference in the responses to Questions 8(a) and 8(c) is the result of not rounding the response to Question 8 (c) to the nearest thousandth.

Please confirm that the response to Question 8 (d) is correct. The response provided for Question 8 (d) is the same as the response to Questions 8 (a). However, Question 8 (d) asks for the TOD-weighted MPR levelized over the contract term, whereas Questions 8 (a) asks for the levelized above-market cost.

Regarding the response to Question 8 (b), which identifies the total amount of above-market costs over the proposed contract period, please note that the Energy Commission intends to publish information on the total anticipated SEP award amount once a Funding Confirmation Letter is issued. This is stated on page 11 of the Energy Commission's New Renewable Facilities Program Guidebook, which provides as follows:

> "After the Energy Commission issues a Funding Confirmation Letter, the Energy Commission will publish information on its Web site identifying the name of the Seller, the procuring retail seller, and the total anticipated SEP award amount."

Question 11 – Contract Milestones

Esmeralda requests that the contract milestone dates reported in Question 11 of the CEC-SEP-4 form be kept confidential for "a period of three (3) years," but does not indicate when this three-year period is to begin. Please indicate in your response the beginning and end dates for the three-year period.

Please explain whether any of the identified milestone dates will be public once the milestones are completed, or prior to such time. Please indicate whether information concerning Esmeralda's demonstration of site control will be public once site control is secured by Esmeralda. Please indicate whether information concerning the execution of an Engineering Procurement and Construction Plan contract will be public once the contract is executed. Please indicate whether information concerning the execution of an Interconnection agreement will be public once the agreement is executed. Please indicate whether information concerning the receipt of environmental permits will be public once the permits are issued. These permits are public documents and should be available publicly once issued. Please indicate whether information concerning the construction start date will be public before the construction starts.

Please explain how disclosure of the contract milestone dates will harm Esmeralda. Will public disclosure of any of the contract milestone dates adversely affect the development of the Esmeralda project? If so, please explain how. For example, could disclosure of any of the contract milestone dates affect pending or future contract negotiations between Esmeralda and third parties and thereby affect the development cost and development of the Esmeralda project? Will public disclosure of any of the contract milestone dates adversely affect the willingness of other project developers to participate in future RPS contract solicitations? If so, please explain how. Will public disclosure of any of the contract milestone dates adversely affect SDG&E's costs and its ability to comply with the RPS?

Information Provided in Supporting Excel Spreadsheets

Esmeralda requests that various contract pricing information included in the Excel spreadsheets entitled "Input Bid Data," "Results," "Contract Price," "Bid Price," "Weighted Average Contract Price," and "Bid Data Request Transfer Sheet" be kept confidential for a three-year period, but does not indicate when this three-year period is to begin. Please indicate in your response the beginning and end dates for the three-year period.

Please provide additional information as discussed herein within 10 business days, if possible. Your response should be filed with the Energy Commission's Docket Unit with copies to the Energy Commission's Executive Director and Legal Office. If you have any questions concerning this matter, please contact me at (916) 654-5141.

Sincerely,

GABRIEL HERRERA
Senior Staff Counsel

cc: Steven J. Haber, Esq.
Dockets Unit
Heather Raitt
Tony Goncalves