

CALIFORNIA ENERGY COMMISSION

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September 29, 2011

Samantha G. Pottenger
Ellison, Schneider & Harris LLP
2600 Capitol Ave, Suite 400
Sacramento, CA 95816

DOCKET	
11-CAI-02	
DATE	<u>Sept 29 2011</u>
RECD.	<u>Oct. 05 2011</u>

**RE: Application for Confidential Designation: Geothermal Facility
Engineering Information
Docket No. 11-CAI-02**

Dear Ms. Pottenger:

On September 2 and 8, 2011, ORMAT Nevada, Inc. (Applicant) filed two applications for confidentiality to the above-captioned docket relating to the North Brawley and East Brawley geothermal facilities and the California Energy Commission's (Energy Commission) jurisdictional determination. The application seeks confidentiality relating to equipment and facility design data. Specifically, the Applicant requests confidentiality for the following documents:

- 1) North Brawley Geothermal Power Plant Heat and Mass Balance Diagram;
- 2) East Brawley Geothermal Power Plant Heat and Mass Balance Diagram;
- 3) North Brawley Conceptual Geofluid Process Flow Diagrams;
- 4) North Brawley CW Pump Information;
- 5) ORMAT Hydraulic Analysis;
- 6) ORMAT HEBER II Optimization Project Brushless Synchronous Generator Specifications;
- 7) Mechanical Draft Cooling Tower Bid Form Cooling Tower specifications;
- 8) Data Sheet Synchronous Machines;
- 9) ORMAT Heat Exchanger Specifications Sheets;
- 10) Power Purchase Agreement between ORNI 18, LLC and Southern California Edison;

In addition, the Application seeks confidentiality for the equipment and plant design information for the following equipment utilized on both the North and East Brawley facilities:

- 11) Air Compressor
- 12) Auxiliary Loads Details
- 13) Blow Down Pumps
- 14) Brine Booster Pumps
- 15) Brine Injection Pump

- 16) Cooling Tower Mechanical Data
- 17) Cooling Water Circulation Pumps
- 18) Feed Pumps Level 1
- 19) Feed Pumps Level 2
- 20) Make Up Water Pump
- 21) Production Pump
- 22) Single Line Diagram of facilities
- 23) Facility Daily Generation

The application states that the identified technical plant equipment information and project 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 Energy Commission to keep the above listed 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.

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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,

/S/

Robert P. Oglesby
Executive Director

cc: Docket Unit
Shahab Khoshmashrab