

ELLISON, SCHNEIDER & HARRIS L.L.P.

ANNE J. SCHNEIDER
1947-2010

CHRISTOPHER T. ELLISON
JEFFERY D. HARRIS
DOUGLAS K. KERNER
ROBERT E. DONLAN
ANDREW B. BROWN
GREGGORY L. WHEATLAND
CHRISTOPHER M. SANDERS
LYNN M. HAUG
PETER J. KIEL

ATTORNEYS AT LAW

2600 CAPITOL AVENUE, SUITE 400
SACRAMENTO, CALIFORNIA 95816
TELEPHONE: (916) 447-2166
FACSIMILE: (916) 447-3512
<http://www.eslawfirm.com>

BRIAN S. BIERING
JEDEDIAH J. GIBSON
CHASE B. KAPPEL
SHANE E. C. MCCOIN
SAMANTHA G. POTTENGER

OF COUNSEL:
ELIZABETH P. EWENS
CHERYL L. KING
MARGARET G. LEAVITT
RONALD LIEBERT

February 3, 2012

COMPLETED

Robert Oglesby
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

DOCKET	
12-JD-02	
FEB 03 2012	
DATE	_____
RECD.	FEB 03 2012

DOCKET
FEB 03 2012
Received <u>TKG</u>

RE: Buckeye Geothermal Generating Project

Dear Mr. Oglesby:

Pursuant to Title 20, California Code of Regulations sections 2501 *et seq.*, CPN Wild Horse LLC hereby submits this "Application for Confidential Designation", for information contained in the letter dated February 3, 2012 in response to the questions of Shahab Khoshmashrab regarding the Buckeye Geothermal Generating Project. There is no docket number for this matter.

We are enclosing the Application for Confidential Designation and five copies of the confidential information on 5 CDs directly to the Docket Office. Please feel free to contact me at (916) 447-2166 should you have any questions or require additional information. Thank you for your consideration of our request.

Sincerely,

Jeffery D. Harris

Jeffery D. Harris
Attorneys for CPN Buckeye LLC

enc.

APPLICATION FOR CONFIDENTIAL DESIGNATION

CPN Buckeye LLC Responses to CEC Engineering Questionnaires

1. *Specifically indicate those parts of the record which should be kept confidential.*

CPN Buckeye, LLC ("Buckeye") is requesting confidentiality of the attached letter to Shahab Khoshmashrab which describes the specific design, capacity, operating characteristics, timing and steamfield resources relating to the Buckeye Power Plant. These matters are not subject to the Energy Commission's jurisdiction and are not a matter of public record.

2. *State the length of time the record should be kept confidential, and provide justification for the length of time.*

The technical data contained in the documents identified above must remain confidential for the operating life of the Buckeye Power Plant. These documents provide information regarding project equipment layouts, project specific information, and commercially sensitive proprietary information regarding Buckeye Power Plant's unique technology, timing, capacity and steamfield resources. Release of this information could disclose protected trade secret information.

3. *Cite and discuss (i) the provisions of the Public Records Act or other law which allow the commission to keep the record confidential and (ii) the public interest in nondisclosure of the record.*

The California Public Records Act exempts from public disclosure "trade secrets" which includes "any formula, plan, . . . production data, or compilation of information . . . , which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service . . . and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it." (Cal. Govt. Code § 6254.7(d)) Trade secrets are also protected under the Commission's regulations, which provide that information may be designated as confidential if it "contains a trade secret or its disclosure would otherwise cause a loss of competitive advantage." (Calif. Code of Regulations, Title 20, section 2505(a)(1)(D)). As stated above, the documents provided above provide detailed, project-specific information regarding the project layouts, proprietary generator information, and project design, information that is protected as Buckeye's trade secrets. Such information provides valuable information to competitors regarding Buckeye Power Plant's proprietary generator design information or plant layout. Furthermore, disclosure of such information could cause a loss of competitive advantage to Buckeye in negotiations for project equipment, or if used by competitors to evaluate pricing. Therefore, the information identified above should be designated as confidential.

4. *State whether the information may be disclosed if it is aggregated with other information or masked to conceal certain portions, and if so the degree of aggregation or masking required.*

Buckeye considered whether it would be possible to aggregate or mask the information. However, no feasible method of aggregating or masking the information could be identified that would not either disclose the information or render the information provided useless.

5. *State whether and how the information is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant, and if so under what circumstances.*

Buckeye has not disclosed any of the subject information regarding specific design, capacity, project timing or steamfield resources to anyone other than its employees, attorneys and consultants.

I certify under penalty of perjury that the information contained in this Application for Confidential Designation is true, correct, and complete to the best of my knowledge and belief. I am authorized to make the Application and Certification on behalf of Buckeye.

Dated: February 3, 2012

ELLISON, SCHNEIDER & HARRIS LLP

By: Jeffery D. Harris
Jeffery D. Harris
Ellison, Schneider & Harris L.L.P.
Attorneys for CPN Buckeye, LLC