

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Suedeem G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Bradwood Landing LLC

Docket No. CP06-365-000

ORDER DIRECTING RELEASE OF INFORMATION
UNDER A PROTECTIVE AGREEMENT

(Issued August 7, 2006)

1. On November 7, 2005, six employees of the Oregon Department of Energy (collectively, the Oregon DOE),¹ on that agency's behalf, requested, pursuant to section 388.113(d)(2)(i) of the Commission's regulations, certain non-public information filed by Bradwood Landing LLC (Bradwood Landing) at the pre-filing stage of this proceeding. Specifically, the Oregon DOE requested access to Environmental Resource Report 13 (Resource Report 13). On June 15, 2006, William and Doris Dragich, on behalf of the Dragich Trust,² requested the non-public information contained in Volume III of Bradwood Landing's application which it filed in Docket No. CP06-365-000 on June 5, 2006. As discussed below, the Oregon DOE and Dragich Trust, as intervenors in the

¹ The six requests were filed by Adam Bless, Sisily Fleming, Deanna Henry, Thomas Stoops, Catherine Van Horn, and John White in Docket Nos. CE06-28, -29, -30, -31, -32, and -33, respectively, and are pending action by the Commission's Critical Energy Infrastructure Information (CEII) Coordinator. In addition to Resource Report 13, the Oregon DOE also requested emergency planning documents for other existing, operational LNG facilities, but did not specify any particular facilities. This order does not address access to emergency planning documents.

² The request was filed in Docket No. CE06-205, and is pending action by the Commission's CEII Coordinator.

proceeding,³ may obtain access to the requested information under a protective agreement with Bradwood Landing.

Background

2. On February 23, 2005, Northern Star Natural Gas LLC filed a request to use the Commission's pre-filing process for the proposed Bradwood Landing LNG terminal project. The request was granted on March 7, 2005, in Docket No. PF05-10-000. Among the documents filed in that process was Resource Report 13, for which the company requested confidential treatment pursuant to section 388.112 of the Commission's regulations. As stated above, in November 2005, the Oregon DOE requested access to Resource Report 13. On June 5, 2006, Bradwood Landing filed an application in Docket No. CP06-365-000, requesting authorization to construct and operate the LNG terminal in Bradwood, Oregon.⁴ In its application, Bradwood Landing filed Resource Report 13 as a public document. However, Bradwood Landing requested confidential treatment for appendices A through F to Resource Report 13, which were contained in Volume III of its filing, as well as for the rest of Volume III. Therefore, because Resource Report 13 is currently accessible to the public, the discussion below pertains to Volume III and the appendices to Resource Report 13 contained therein.

Discussion

3. The Commission believes that the Oregon DOE, Dragich Trust, and any other party to the proceeding should be able to obtain access to information for which confidential treatment has been requested pursuant to section 388.112 of the Commission's regulations under a protective agreement.⁵ While there is a model

³ On June 30 and July 6, 2006, respectively, the Oregon DOE and the Dragich Trust filed timely, unopposed motions to intervene in this proceeding and thus, are parties to the proceeding under Rule 214 of the Commission's regulations.

⁴ On the same date, NorthernStar Energy LLC filed a related application in Docket No. CP06-366-000, *et al.*, to build a 34-mile pipeline to transport the regasified LNG from the Bradwood Landing LNG terminal to interconnections with several interstate natural gas pipelines.

⁵ We believe that a protective agreement entered into by the parties will provide as much protection as a Commission-issued protective order or non-disclosure agreement. *See, e.g., Jason Atwood*, 108 FERC ¶ 62,283 at 64,533 (2004) (Commission-issued non-disclosure agreement).

protective order on the Commission's website,⁶ protective agreements should be drafted in light of the facts in a particular case. The goal is "to issue the least restrictive order that will accomplish the purpose of protecting against the harm of disclosure."⁷ The burden is on the party seeking to safeguard this information to show that the protective agreement does not adequately protect its interests and that its concerns outweigh the need for the material by the party seeking it.⁸

4. Accordingly, we hereby order Bradwood Landing to enter into a protective agreement consistent with the discussion above and to provide the Oregon DOE and the Dragich Trust, with access to the non-public information they have requested, within 15 days of the date of this order. Should the parties desire additional assistance, they may make use of the Commission's designated on-call settlement judge. However, the use of such a procedure shall not extend the 15-day deadline for production of the requested material.

The Commission orders:

Within 15 days after the issuance of this order, Bradwood Landing shall provide the Oregon DOE and the Dragich Trust access to the information in appendices A through F to Resource Report 13 and Volume III, respectively, under the terms of executed protective agreements and file a copy of the executed agreements with the Commission.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.

⁶ A link to the model protective order can be found on the Commission's website at <http://www.ferc.gov/legal/admin-lit.asp#skipnavsub>.

⁷ *Mojave Pipeline Co.*, 38 FERC ¶ 61,249 at 61,842 (1987).

⁸ *Id.*