

REC'D NOV 29 2019

John G. Bloom, Professional Geologist – UT, CA

November 22, 2019

Utah Division of Archives and Records Services
Ms. Gina Proctor, SRC Executive Secretary
346 South Rio Grande Street
Salt Lake City, Utah 84101

Dear Ms. Proctor:

I am writing this letter to ask you to overturn a GRAMA request denial. On August 27, 2019 I submitted a GRAMA request (see attached) to the Utah Division of Oil, Gas and Mining (“DOG M”) for two geologic reports related to a salt dome cavern project in Millard County, Utah. The project is currently operated by NGL Supply Terminal Solution Mining LLC (“NGL Supply”), a wholly owned subsidiary of Sawtooth Caverns LLC (formerly known as Magnum Solution Mining LLC, a partner of Magnum Energy / Magnum Development).

The two reports in question are titled:

- 1) Western Energy Hub Project Area, Structural Interpretation, May 2008, prepared by Serra GeoConsulting LLC for Magnum Energy LLC
- 2) Location and Character of Faults in the Vicinity of the Magnum Energy Facility, author Steven Schamel, August 2016

Through my GRAMA request, I sought to learn whether geologic faults near the underground hydrocarbon storage facilities would rupture in a major earthquake and impact public safety in nearby Delta, Utah. My request was denied because the reports have been given business confidentiality per Utah Code §§ 63G-2-309, by DOGM and classified as protected under Utah Code provisions §§ 63G-2-305 (1) trade secrets and (2) unfair competition.

On September 14, 2019, I submitted a letter (see attached) to Mr. John Baza, Director of DOGM, to appeal the denial of my request for the two geologic reports. On November 1, 2019, Mr. Baza replied in a letter to me affirming the denial of access to the classified records.

I do not believe these two scientific reports of a geologic nature were properly classified and should not be protected under business confidentiality, particularly as it applies to the Utah Code for trade secrets and unfair competition.

In a July 18, 2019 letter (see attached), Smith Hartvigsen attorneys on behalf of NGL Supply made three claims to support protection under business confidentiality: 1) Sawtooth’s predecessor, Magnum, expended considerable sums to get the reports; 2) Information in the reports derives independent economic value; and 3) Information in the reports could result in unfair competitive injury.

1) Regarding the claim of considerable expended sums:

In typical engineering geology practice in Utah, fee-based consulting companies are routinely contracted to investigate surface fault rupture and write a geologic report on the topic for a client who seeks to develop a property that is within a geologic hazard Special Study Area. Once the client files a report with a governmental entity and it become a government record, it often makes its way voluntarily to the Utah Geological Survey (UGS) and into its Geodata Archive System, where it becomes available for public disclosure. This is done without any consideration of the expended sums the client may have spent to obtain the investigation report. Given this precedent, I do not believe the claim by NGL Supply of "considerable expended sums" to be a valid reason to withhold the two geologic reports from my access.

2) Regarding the claim of independent economic value:

From the titles of these reports, it is reasonable to assume both address topics specific to the field of structural geology; namely, the location, character and interpretation of geologic fault structures. It is merely a supposition to claim that this information, in and of itself, provides independent economic value. There is no demonstration of evidence to support this claim provided in the Smith Hartvigsen attorneys' letter.

Contrary to this claim, the geologic faults should be irrelevant to the design of the cavern well field. That is, unless, the faults are shown to penetrate the salt-dome and well field in which case construction of the individual caverns for storage of hydrocarbons should be avoided as they would be at high risk of failure if these geologic faults should rupture in an earthquake.

Information in these reports should be accessible to the public to disseminate geologic knowledge of the area and to ensure public safety would not be compromised by the construction of the caverns for hydrocarbon storage. In my view, withholding these reports from public access as "trade secrets" is a misapplication of Utah Code provision §§ 63G-2-305 (1).

3) Regarding the claim of unfair competitive injury:

There can be no unfair competitive injury if there is no competition. Information in these two reports is for geologic faults in an area underlain by a salt dome formation, which has been and will be further developed by Sawtooth Caverns / Magnum Development as underground storage caverns. At its website, Magnum Development states it "**owns and controls** the only known 'Gulf Coast' style domal-quality salt formation in the western United States." Elsewhere at its website, it states a future project (at the same site) "**is located on private, federal and leased lands from the State Institutional Trust Land Administration (SITLA).**" In other words, Sawtooth / Magnum has acquired the land position necessary for its operation that precludes any competing development in this area. In my view, withholding these reports from public access as "unfair competition" is a misapplication of Utah Code provisions §§ 63G-2-305 (2).

In conclusion, I do not believe two scientific reports of a geologic nature should be classified as protected under business confidentiality. Please honor my appeal and overturn the denial of my GRAMA request.

Respectfully,

A handwritten signature in blue ink that reads "John G. Bloom". The signature is written in a cursive, flowing style.

John G. Bloom, PG – UT, CA

Mr. John G Bloom
7552 S Misty Hollow Way
West Jordan, UT 84084

REC'D NOV 29 2019



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UT Div. of Archives & Records
Ms. Gina Proctor
346 S. Rio Grande St.
SLC, UT 84101





GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

Brian Steed
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

November 1, 2019

John Bloom
7552 S. Misty Hollow Way
West Jordan, UT 84084

Subject: Affirmation of Denial of Access to Classified Records.

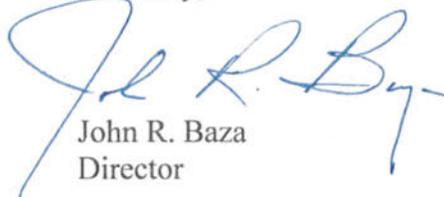
Dear Mr. Bloom:

I received your letter appealing the Division of Oil, Gas, and Mining's ("**Division**") denial of access to Sawtooth's classified records. After review of the records in question, and the Division's reasoning set forth in the initial denial, I agree with the Division and affirm the initial determination that the records were properly classified as protected under Utah Code §§ 63G-2-305(1), (2).

You may appeal this decision to the Utah Division of Archives and Records Services, State Records Committee. Any appeal must be made within 30 days to:

Gina Proctor
SRC Executive Secretary
346 South Rio Grande Street,
Salt Lake City, Utah 84101
(801) 531-3834
gproctor@utah.gov

Sincerely,



John R. Baza
Director





State of Utah

DEPARTMENT OF NATURAL RESOURCES
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, UT 84114-5801

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JOHN BLOOM
7552 S MISTY HOLLOW WAY
WEST JORDAN UT 84084

JXU-SEB 84084



CAO Decision
On Appeal

APPEAL TO CAO

John G. Bloom, PG – UT, CA
7552 S. Misty Hollow Way
West Jordan, UT 84084
September 14, 2019

Utah Division of Oil, Gas and Mining
Mr. John Baza, Director
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84116

Mr. Baza:

On August 25, 2019 I made a GRAMA request for two geologic reports related to the Magnum Development salt cavern project in Millard County. My request was denied because the reports have been classified as protected under Utah Code §§ 63G-2-305(1) trade secrets and (2) unfair competition provisions.

I am appealing the denial of my request and wish to get access to the two geologic reports. I have included a copy of the GRAMA Request Notice of Denial.

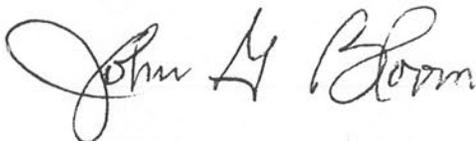
The two reports in question are titled 1) Western Energy Hub Project Area, Structural Interpretation, 2008, prepared by Serra GeoConsulting LLC for Magnum Energy LLC and 2) Location and Character of Faults in the Vicinity of the Magnum Energy Facility, author Steven Schamel, August 2016.

I do not believe two scientific investigations of a geologic nature should be classified as protected under business confidentiality per Utah Code §§ 63G-2-309, particularly as applied under Utah Code §§ 63G-2-305(1) trade secrets and (2) unfair competition.

My interest in seeking these reports is directly related to the letter I submitted to the DOGM board on July 8, 2019. In that letter, which I have included, I asked whether sufficient due diligence has been performed by Magnum Development or its consultants to determine the response of the salt dome and caverns to a major earthquake, given the proximity of the salt dome and caverns to the Wasatch Fault and the Sugarville Faults.

I hope you will honor my appeal and allow me to receive the two geologic reports in question.

Respectfully,

A handwritten signature in black ink that reads "John G. Bloom". The signature is written in a cursive style with a large, looping initial "J".

John G. Bloom, PG – UT, CA

Governmental Entity
Initial Response

GRAMA Request Notice of Denial

Date: 08/29/2019

Note: Utah Code § [63G-2-205](#) (1 and 2) states that if the governmental entity denies the record in whole or in part, it shall provide a notice of denial. The notice shall contain a description of the record or portions of the record to which access was denied (provided the description does not disclose restricted information), the legal citation on which the decision to deny access is based (provided citation does not disclose restricted information), a statement that the requester has the right to appeal to the chief administrative officer, the time limits for filing an appeal, and the name and business address of the chief administrative officer.

Requester's information

Name: Jack Bloom

Address: 7552 S. Misty Hollow Way

City/State/zip: West Jordan, Utah 84084

Daytime telephone number: 801-824-9840

Respondent's information

Records/GRAMA officer: Vicky Dyson

Government agency or office: Utah Division of Oil, Gas, and Mining

Address: 1594 W. North Temple Suite 1210,

City/State/zip: Salt Lake City, Utah 84116

Record access considerations

Access to records or portions of records you requested or your request for a fee waiver is denied. These records have been classified with restricted access pursuant to GRAMA (Utah Code § [63G-2-201\(3\)](#)) or court rule, another state statute, federal statute, or federal regulation (Utah Code § [63G-2-201\(6\)](#)). Please see the attached sheet for a description of the record(s) denied and the reason for the denial.

Notice of appeal

You have the right to appeal this denial to the chief administrative officer. Please direct your appeal to:

Name: John Baza, Director of the Division of Oil, Gas, and Mining

Address: 1594 W. North Temple Suite 1210

City/State/zip: Salt Lake City, Utah 84116

Your notice of appeal must be submitted within 30 days of the above denial date and must include your name, mailing address, daytime telephone number, and an explanation of the relief sought. You may also include any supporting information with your notice of appeal.

Description of record	Complete citation of classification or court rule/order, state statute, federal statute, or federal regulation; and statement of reason
Report re: Structural Interpretation of Salt Dome near Delta, Utah.	The entity that submitted the records complied with Utah Code § 63G-2-309 to designate the records as confidential. Upon receipt of the records in question, the Division classified them as protected under Utah Code §§ 63G-2-305(1) (trade secrets) and (2) (unfair competition). Therefore the Division may deny access to the requested records.
Report re: Character of Faults of Salt Dome near Delta, Utah.	The entity that submitted the records complied with Utah Code § 63G-2-309 to designate the records as confidential. Upon receipt of the records in question, the Division classified them as protected under Utah Code §§ 63G-2-305(1) (trade secrets) and (2) (unfair competition). Therefore the Division may deny access to the requested records.

Office use

Records access considerations

These records have been classified with restricted access pursuant to GRAMA (Utah Code § [63G-2-201\(3\)](#)) or court rule, another state statute, federal statute, or federal regulation (Utah Code § [63G-2-201\(6\)](#)). [Detail provided.]

Records request unreasonably duplicates prior request and as provided in Utah Code § [63G-2-201\(8\)\(a\)\(iv\)](#) the governmental entity is not required to fulfill the request.

The agency does not have this record.

A governmental entity is not required to create a record to fulfill this request as provided in Utah Code § [63G-2-201\(8\)\(a\)\(i\)](#).

This record was appropriately disposed of according to record series retention schedule number _____ on _____ .
(date)

Utah Code § [63G-2-203\(8\)\(a\)](#) provides that a governmental entity may require payment of past fees and future estimated fees (if fees are expected to exceed \$50) before beginning to process a request.

The estimated fee to fulfill this request is \$ _____. The prepaid amount in excess of fees will be returned to requester.

The requester owes \$ _____ in unpaid fees from previous requests.

Fee waiver considerations (See GRAMA Fees Form)

Note: Utah Code § [63G-2-203\(6\)](#) provides that the requester may appeal the denial in the same manner as a person appeals when inspection of a public record is denied under § [63G-2-205](#) if he or she believes that there has been an unreasonable denial of a fee waiver. If the governmental entity denies a fee waiver, it must provide a statement that the requester has the right to appeal the denial to the chief administrative officer of the governmental entity; and the time limits for filing an appeal, and the name and business address of the chief administrative officer of the governmental entity.

Request for fee waiver is denied.

Other considerations

Petitioner's Initial Request

GRAMA Request Form

Note: Utah Code § 63G-2-204 (GRAMA) requires a person making a records request furnish the governmental entity with a written request containing the requester's name, mailing address, daytime telephone number (if available); and a description of the record requested that identifies the record with reasonable specificity.

Requester's information

Name: Jack Bloom Date: Aug 27, 2019

Address: 7552 S. Misty Hollow Way

City/State/zip: West Jordan, UT 84084

Daytime telephone number: 801-824-9840

Request made to

Government agency or office: Division of Oil, Gas and Mining

Address: 1594 West North Temple, Suite 1210

City/State/zip: Salt Lake City, UT 84114

Records requested

Note: The more specific and narrow the request, the easier it will be for an agency or office to respond to the request. If you are unsure about the records' description, contact the agency or office records officer.

Note: Government keeps records in "series" or groups of records. To find out what series an agency or office maintains, visit the Archives' website, <http://archives.utah.gov>. The record series retention schedules on the Archives' website include relevant descriptions.

Title or series number of records (if known): _____

Description of records including all relevant information—location of event(s) described in records, city, county, address; date range of the records; names of the person(s); and subject of the request.

- 1) Report: Western Energy Hub Project Area, Structural Interpretation, May 2008, prepared by Serra GeoConsulting LLC for Magnum Energy LLC.
- 2) Report: Location and Character of Faults in the Vicinity of the Magnum Energy Facility, author Steven Schamel, Aug. 2016.

Additional Communications



KATHRYN J. STEFFEY

ksteffey@SHutah.law

July 18, 2019

Via Hand Delivery

Thomas Kessinger
Assistant Attorney General
Division of Oil, Gas and Mining
1594 West North Temple
Salt Lake City, Utah 84116

Re: *Sawtooth Storage Facility—Business Confidential Submittal*

Dear Thomas:

On behalf of NGL Supply Terminal Solution Mining, LLC, a wholly owned subsidiary of Sawtooth Caverns, LLC (“**Sawtooth**”), and in accordance with the request made by the Utah Division of Oil, Gas and Mining (“**DOGM**”) for supplementation of business confidential reports originally provided by Magnum Solution Mining, LLC (“**Magnum**”) to the Division of Water Quality, please find enclosed the following nine (9) reports: (1) the Location and Character of Faults in the Vicinity of the Magnum Energy Facility, Northeast Millard County, Utah, August 29, 2016, prepared by Steven Schamel, Ph.D.; (2) Western Energy Hub Project Area, Structural Interpretation, May 2008, prepared by Serra GeoConsulting LLC for Magnum Energy LLC; (3) Geology, Geomechanics, Chemistry, and Analysis Supporting the Magnum Gas Storage Project, May 2010, prepared by SANDIA National Laboratories; (4) Seismic Interpretation with Pre-Stack Time Migration, May 12, 2010, prepared by Kevin Hill, Hill Geophysical Consulting; (5) Geomechanical Design Study of the Magnum Gas Storage Project Caverns near Delta, Utah, September 2010, prepared by RESPEC Consulting & Services for PB Energy Storage Services, Inc.; (6) Magnum Gas Storage Project Cavern Closure Estimate, September 10, 2010, prepared by RESPEC; (7) Letter from Stuart Buchholz of RESPEC to David Babcock of Magnum Energy LLC regarding reevaluation of original geomechanical study which was for NG storage, for Liquid Hydrocarbon Storage, dated September 29, 2011; (8) Magnum NGLs Salt Summary, dated January 2012; and (9) Geomechanical Evaluation of Magnum Cavern CW-5 Near Delta, Utah, April 2015, prepared by RESPEC (collectively the “**Reports**”). The Reports are marked as **Protected: Business Confidential**. In accordance with Utah Code Ann. § 63G-2-309(1)(a)(i), Sawtooth hereby submits its claim of business confidentiality and a written statement of the reasons supporting the claim of business confidentiality as it relates to the Reports.

The Reports constitute trade secret information and are therefore protected under both GRAMA and the federal Freedom of Information Act. *See* Utah Code Ann. § 63G-2-305(1); 5 U.S.C. § 552(b)(4). Indeed, Sawtooth’s predecessor, Magnum, expended considerable sums to obtain the Reports, and Sawtooth acquired the Reports through a purchase agreement. Moreover, the information contained therein derives independent economic value as it sets forth information critical to the design of the cavern well field and individual storage caverns. If such information is publicly disclosed, it would provide Sawtooth’s competitors with a substantial economic advantage.

Sawtooth has taken extensive measures to ensure the confidentiality of the Reports. Such measures include limiting access to the Reports to only those Senior Executive Officers with a need to know. Moreover, Sawtooth requires any of its consultants or others required to review the Reports to provide services to Sawtooth to first sign a non-disclosure and confidentiality agreement before reviewing the Reports. Sawtooth's predecessor, Magnum, likewise has implemented extensive measures to ensure the confidentiality of the Reports.

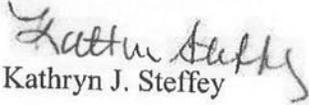
In addition to constituting trade secrets protected under Utah Code Ann. § 63G-2-305(1), the Reports also qualify as protected records under Utah Code Ann. § 63G-2-305(2) as disclosure of the information within the Reports could reasonably be expected to result in unfair competitive injury and Sawtooth has a greater interest in prohibiting access than the public in obtaining access.

Given that both Sawtooth and Magnum have a substantial interest in the Reports, I hereby request that both entities be notified pursuant to Utah Code Ann. § 63G-2-309(1)(b) if a question is raised as to the classification of the Reports.

If the Division has any additional questions regarding the bases for designating the Reports as confidential and protected, please contact me immediately.

Thank you for your time and assistance in this matter.

Sincerely,
SMITH HARTVIGSEN, PLLC


Kathryn J. Steffey

cc: Sawtooth
Magnum