

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

June 11, 2008

Mr. Erik Layman
Layman Energy Associates, Inc.
1582 Cordova Drive
San Luis Obispo, CA 93405

RE: **Application for Confidentiality,
Truckhaven Project,
Docket No. 08-GEO-1**

DOCKET 08-GEO-1	
DATE	JUN 11 2008
RECD.	JUN 16 2008

Dear Mr. Layman:

On May 8, 2008, Layman Energy Associates, Inc. (LEA) and Iceland America Energy, Inc. (IAE) (collectively, Applicant) filed an application for confidentiality in the above-captioned docket. The Applicant seeks confidentiality for its draft and final reports submitted as part of the California Energy Commission's (Energy Commission) Geothermal Resources Development Account Program (GRDA) Grant (GEO-04-007) (hereinafter, Grant Agreement).

The Applicant's application for confidentiality states, in part:

LEA and IAE each and both formally request that the Draft Report and the Final Report, including all data, information and trade secrets contained therein remain confidential for a period of not less than one (1) year from the date hereof. . . . ¶ As such, LEA, the Grant recipient, and IAE respectfully request that the Final Report and its entire contents, including the introductory pages (ii through vi, inclusive), the Executive Summary (pages 1 through 3, inclusive), the main body of the document, including all illustrations (pages 4 through 28, inclusive), the GeothermEx Report on Flow Test Results (Appendix A), and the Thermochem Analysis of Brine and Steam (Appendix B) be designated "confidential" and that the same be treated with the strictest confidentiality for a period of not less than one (1) year from the date hereof. . . . ¶ The trade secrets enumerated in the Draft Report and the Final Report are used daily in IAE's business. . . . ¶ If the trade secrets, data and information are revealed to the public in connection with the \$700,000 Grant that amounted to roughly 10% of the total cost of the Truckhaven project, IAE would greatly lose the economic value of this investment. . . . ¶ If the CEC were to divulge the information contained in the Draft Report or the Final Report, IAE's position with respect to the unitization negotiations would be seriously compromised.

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."

In addition, 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. Howie* (1971) 19 Cal.App.3d 194, 207-208, 96 Cal.Rptr. 493, 500-501, from the Restatement of Torts, vol. 4, sec. 757, comment b, p. 5.)

The Grant Agreement, executed between the Energy Commission and LEA, specifically states:

This project is being funded with a grant from the California Energy Commission (Commission). Funding for this project was authorized by the 2004/2005 Budget Act, Chapter 208, Statutes of 2004, and consists of funds from the Geothermal Resources Development Account (GRDA). . . . ¶ The Commission reserves the right to use and reproduce all reports and data produced and delivered pursuant to this Agreement, and reserves the right to authorize others to use or reproduce such materials. Each report becomes the property of the Commission. . . . ¶

The Energy Commission has reviewed the materials submitted by the Applicant and determined that the information seeking a confidential designation constitutes a trade secret. The Energy Commission has determined that disclosure of this information would, in the short-term, harm the economic interests of the Applicant. For this reason, the information seeking a confidential designation is granted confidentiality until May 31, 2009.

Persons may petition to inspect and/or copy those 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.

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Finally, the Applicant may wish to appeal this determination. Be advised that an appeal of this determination must be filed within fourteen days from the date of this letter. The procedures and criteria for appealing any part of this determination are set forth in the California Code of Regulations, title 20, section 2505. If you have any questions concerning this matter, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,



MELISSA JONES
Executive Director

cc: Docket Unit
Energy Commission Project Manager