

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512



October 8, 2009

Jeff Spray
Geothermal Expandables, LLC
12755 Ashford Hills Drive
Houston TX 77077

DOCKET**09-GEO-1**DATE OCT 08 2009RECD. OCT 12 2009

RE: **Geothermal Expandables Application for Confidentiality**
Geothermal Research and Development Account Docket No. 09-GEO-1

Dear Mr. Spray:

On September 9, 2009, Geothermal Expandables filed an Application for Confidentiality with California Energy Commission (Energy Commission) for information related to the CFEX Self Expanding Tubular Technology Geothermal Research and Development Account (GRDA) grant (Docket No.09-HERS-1). The application seeks confidentiality for the following information related to the Quarterly Progress Report for the second quarter of 2009:

1. Page 6, paragraph 3, line
2. Page 6, Table-1, paragraph 1
3. Page 7, lines 4-17, 25-33
4. Pages 8-10
5. Page 11, Figure 4, Item c.9
6. Drawings on pages 13-22
7. Page 25, paragraph 2
8. Page 27, lines 1-4
9. Page 37, last four bullets
10. Page 38, lines 3-5

Geothermal Expandables claims that the Report contains:

. . . highly proprietary information and trade secrets that have been developed by Applicant at great expense over a number of years. The public disclosure of such information would destroy the Applicant's competitive advantage over other potential developers of the "expandable tubular" technology that Applicant has invented and/or refined in its business for purpose of exploitation in oil, gas, water, steam and other extraction efforts.

Geothermal Expandables claims that the information is exempt from public disclosure as proprietary information and trade secrets pursuant to the California Public Records Act.

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.)

Geothermal Expandables has made a reasonable claim that the law allows the Energy Commission to keep the above listed information confidential on the grounds that it is trade secret and proprietary information. The information has been developed at exclusively by Geothermal Expandables, contains information that is not public, and has the potential for economic advantage. As such, your request for confidential determination is granted. The information listed above will remain confidential until December 31, 2015.

Persons may petition to inspect or copy the 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.

Please note that subsequently submitted information can be deemed confidential as specified in this letter without the need for a new application if you file a certification under penalty of perjury that the new information is substantially similar to the information granted confidentiality by this determination. California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4).

If you have any questions concerning this matter, please contact Deborah Dyer, Senior Staff Counsel, at (916) 654-3870.

Sincerely,

MELISSA JONES
Executive Director

cc: Docket Unit
Pablo Gutierrez, GRDA Project Manager