

Michael J. Carroll
(714) 755-8105
michael.carroll@lw.com

650 Town Center Drive, 20th Floor
Costa Mesa, California 92626-1925
Tel: +1.714.540.1235 Fax: +1.714.755.8290
www.lw.com

LATHAM & WATKINS LLP

COMPLETED

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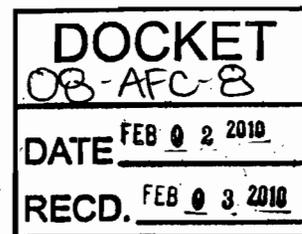


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VIA FEDERAL EXPRESS

Ms. Melissa Jones
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814



Re: **Application for Confidential Designation – Hydrogen Energy California Power Plant (08-AFC-8), Response to California Energy Commission Staff Data Request Set One, No. 65, Attachment 65-1**

Dear Ms. Jones:

Hydrogen Energy International, LLC (“Applicant”) has proposed the Hydrogen Energy California Power Plant (08-AFC-8). In support of the Applicant’s response to California Energy Commission Staff Data Request Set One, No. 65, the Applicant has prepared Attachment 65-1, which describes and depicts sensitive information about potential cultural and archeological resources as part of an archaeological reconnaissance of portions of the project area (the “Submitted Record”).

The Applicant requests that the Submitted Record be designated confidential pursuant to California Government Code § 6254(r), which exempts certain information related to cultural and archaeological resources from disclosure under the California Public Records Act. The Submitted Record contains sensitive information about cultural and archaeological resources related to paleontological, archaeological or historical objects, structures, landscapes, resources, or sites of concern to local Native Americans or other ethnic groups, or resources described in California Public Resources Code §§ 5097.9 or 5097.993. If the information in the Submitted Record is released to the public, there is a risk that the information could be used to loot, vandalize, or otherwise damage sensitive cultural or archaeological resources.

According to the Energy Commission’s regulations, an application for confidential designation “shall be granted if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential.” (Title

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14, California Code of Regulations, § 2505(a)(3)(A) (emphasis added).) Accordingly, the Applicant requests that this application be granted based on the applicability of Gov. Code § 6254(r).

To ensure the long-term protection of the cultural or archaeological resources from looting, vandalism or other degradation, the Applicant requests that the entirety of the Submitted Record be kept confidential indefinitely, and that the Submitted Record not be disclosed even if aggregated with other information or redacted to conceal certain information. The Applicant has not disclosed any of the subject confidential information to anyone other than its employees, attorneys, consultants, others working as part of the project application before the Energy Commission, or others with a specific need for the information. This information has not been disclosed by the Applicant except on a "need-to-know" basis.

I have been authorized to make this application and certification on behalf of the Applicant. With my signature to this letter, 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.

Very truly yours,



Michael J. Carroll
of LATHAM & WATKINS LLP

cc:

Gregory Skannal, Hydrogen Energy International, LLC
Asteghik Khajetoorians, Hydrogen Energy International, LLC
Dale Shileikis, URS Corporation