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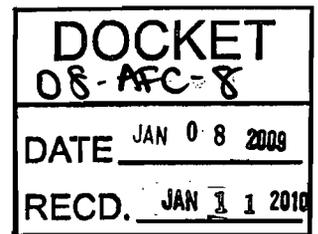
January 8, 2010



VIA FEDEX

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 08-AFC-08
1516 Ninth Street, MS-4
Sacramento, California 95814-5512

File No. 039610-0003



Re: Hydrogen Energy California Project: Docket No. 08-AFC-08
Confidential Submittal

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, Sections 1209, 1209.5, 1210, and 2505, enclosed herewith for filing please find a letter from Michael Carroll to Melissa Jones regarding Applicant's application for confidential designation of responses to California Energy Commission Staff Data Request No. 64(F). Per CEC protocols, five (5) copies of the application letter with the confidential submittal are also enclosed.

Please note that the enclosed application letter (without the confidential material) was also filed today via electronic mail to your attention and to all parties on the attached electronic proof of service list.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul E. Kihm".

Paul E. Kihm
Senior Paralegal

Enclosures

cc: 08-AFC-08 Proof of Service List (w/encl. application letter only, via e-mail and U.S. Mail)
Michael J. Carroll, Esq. (w/encl.)
Marc T. Campopiano, Esq. (w/encl.)

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LATHAM & WATKINS LLP

January 6, 2010

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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 No. 64(F)**

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 64(F), the Applicant has prepared Figure 64-1(f), which depicts sensitive information about identified cultural resources on U.S. Geological Survey maps (the “Submitted Record”). Staff requested that this information be submitted under confidential cover.

The Applicant requests that the Submitted Record be designated confidential pursuant to California Government Code § 6254(r), which exempts certain information related to cultural resources from disclosure under the California Public Records Act. The Submitted Record contains sensitive cultural resources information related to paleontological, archaeological or historical objects, structures, landscapes, resources, or sites of concern to local Native American 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 the sensitive cultural 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

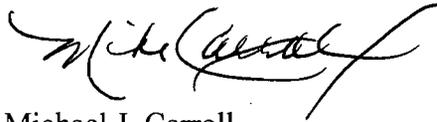
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14, California Code of Regulations, § 2505(a)(3)(A) (emphasis added).) Accordingly, the Applicant requests that this application be granted based on the applicability of Gov. Code § 6254(r).

To ensure the long-term protection of the identified cultural 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