

LATHAM & WATKINS LLP

October 26, 2010

VIA FEDEX

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

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

Dear Sir/Madam:

Pursuant to California Code of Regulations, Title 20, Sections 1209, 1209.5, and 1210, enclosed herewith for filing please find Applicant's Requests for Extensions of Time and Objections to Certain Data Requests by the Energy Commission Staff regarding Data Request Set Three (Nos. 153 – 218).

Please note that the enclosed submittal was filed today via electronic mail to your attention and served on all parties to the above-referenced project.

Very truly yours,



Paul E. Kihm
Senior Paralegal

Enclosure

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

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

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File No. 045049-0001

DOCKET
08-AFC-8

DATE OCT 26 2010

RECD. OCT 26 2010

Michael J. Carroll
 Marc T. Campopiano
 LATHAM & WATKINS LLP
 650 Town Center Drive, Suite 2000
 Costa Mesa, CA 92626
 (714) 540-1235

STATE OF CALIFORNIA
 ENERGY RESOURCES
 CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:	)	Docket No. 08-AFC-8
)	
REVISED APPLICATION FOR	)	REQUESTS FOR EXTENSIONS OF TIME
CERTIFICATION FOR THE HYDROGEN	)	AND OBJECTIONS TO CERTAIN DATA
ENERGY CALIFORNIA POWER PLANT	)	REQUESTS BY THE ENERGY
PROJECT BY HYDROGEN ENERGY	)	COMMISSION STAFF REGARDING
CALIFORNIA, LLC	)	DATA REQUEST SET THREE (NOS. 153-
	)	218)

Pursuant to Title 20, California Code of Regulations, Section 1716(f), Hydrogen Energy California, LLC (“Applicant”) requests extensions of time and objects to certain data requests by the Energy Commission Staff (“Staff”) in its Data Request Set Three (Nos. 153-218), dated October 6, 2010, regarding the Hydrogen Energy California Power Plant Project (08-AFC-8) (“HECA”).

Applicant objects to all or portions of Data Request Nos. 168-173, 181 and 210. Applicant requests extensions of time for responding to Data Request Nos. 179, 207, 209, 210, 211 and 212-215.

A. Objections

1. Data Request Nos. 168-173

Applicant’s Objection: Applicant objects to Data Request Nos. 168-173 on the basis that they call for information which would be overly burdensome for the Applicant to develop at this time. CEQA only requires an evaluation of potential impacts to the extent that it is reasonably possible to do so. *See In Re Bay-Delta*, 43 Cal. 4th 1143, 1175 (2008); *see also Residents Ad Hoc Stadium Comm. v. Board of Trustees*, 89 Cal. App. 3d 274, 286 (CEQA “does not demand what is not reasonably possible given the limitations of time, energy, and funds”). Applicant recommends conditions of certification requiring that the requested information and

analysis be completed post-certification and pre-construction to allow Applicant to combine this work with other analysis (eg., detailed geotechnical evaluation) for greater efficiency.

2. Data Request No. 181

Applicant's Objection: Applicant objects to Data Request No. 181 to the extent that it requests information for purposes of determining SB 1368 compliance, as set forth in the "background" to the Data Request. Emissions associated with Oxy's enhanced oil recovery (EOR) project are not relevant to a determination of HECA's compliance with SB 1368 performance standards for power plants. However, Applicant agrees that the requested data are relevant to the CEC's CEQA analysis, and Oxy will provide the requested information by approximately December 3, 2010.

B. Requests for Extensions of Time to Respond

1. Data Request No. 179

Applicant's Request: Applicant requests a 30-day extension for responding to this Data Request.

2. Data Request No. 207

Applicant's Request: Applicant requests a 30-day extension for responding to this Data Request.

3. Data Request No. 209

Applicant's Request: Applicant requests a 60-day extension for responding to this Data Request.

4. Data Request No. 210

Applicant's Request: Applicant requests a 30-day extension for responding to this Data Request.

5. Data Request No. 211

Applicant's Request: Applicant requests a 60-day extension for responding to this Data Request.

6. Data Request Nos. 212-215

Applicant's Request: Applicant requests a 30-day extension for responding to this Data Request.

DATED: October 26, 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mike Carroll", is written over a horizontal line.

Michael J. Carroll
LATHAM & WATKINS LLP
Counsel to Applicant

**STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of:	)	Docket No. 08-AFC-08
)	
APPLICATION FOR CERTIFICATION, FOR THE HYDROGEN ENERGY CALIFORNIA PROJECT BY HYDROGEN ENERGY INTERNATIONAL, LLC	)	PROOF OF SERVICE
	)	(October 21, 2010)
)	
)	
_____)	

APPLICANT

Gregory D. Skannal
Tiffany Rau
Rick Harrison
Hydrogen Energy International LLC
One World Trade Center, Suite 1600
Long Beach, CA 90831
gregory.skannal@hydrogenenergy.com
tiffany.rau@hydrogenenergy.com
rick.harrison@hydrogenenergy.com

Asteghik Khajetoorians
Senior BP Legal Attorney
BP America, Inc.
6 Centerpointe Drive, LPR 6-550
La Palma, CA 90623
Asteghik.Khajetoorians@bp.com

APPLICANT'S CONSULTANT

Dale Shileikis
Vice President
Energy Services Manager
Major Environmental Programs
URS Corporation
One Montgomery Street, Suite 900
San Francisco, CA 94104-4538
dale_shileikis@urscorp.com

HYDROGEN ENERGY CALIFORNIA PROJECT
CEC Docket No. 08-AFC-08

INTERESTED AGENCIES

California ISO

e-recipient@caiso.com

e-mail preferred

Marni Weber

Department of Conservation

Office of Governmental and Environmental Relations

(Department of Oil, Gas & Geothermal Resources)

801 K Street MS 2402

Sacramento, CA 95814-3530

Marni.Weber@conservation.ca.gov

INTERVENORS

California Unions for Reliable Energy

Thomas A. Enslow

Marc D. Joseph

Adams Broadwell Joseph & Cardozo

520 Capitol Mall, Suite 350

Sacramento, CA 95814

tenslow@adamsbroadwell.com

Tom Frantz

Association of Irrigated Residents

30100 Orange Street

Shafter, CA 93263

tfrantz@bak.rr.com

Babak Naficy

Law Offices of Babak Naficy

Kern-Kaweah Chapter of the Sierra Club

1504 Marsh Street

San Luis Obispo, California 93401

babaknaficy@sbcglobal.net

Timothy O'Connor, Esq.

Environmental Defense Fund (EDF)

1107 Ninth St., Suite 540

Sacramento, CA 95814

toconnor@edf.org

HYDROGEN ENERGY CALIFORNIA PROJECT
CEC Docket No. 08-AFC-08

George Peridas

Natural Resources Defense Council
111 Sutter Street, 20th Fl.
San Francisco, CA 94104
gperidas@nrdc.org

ENERGY COMMISSION

James D. Boyd, Commissioner

Vice Chairman and Presiding Member
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, CA 95814-5512
jboyd@energy.state.ca.us

Jeffrey D. Byron

Commissioner and Associate Member
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, CA 95814-5512
jbyron@energy.state.ca.us

Raoul Renaud

Hearing Officer
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California 95814-5512
rrenaud@energy.state.ca.us

Kristy Chew

Advisor to Commissioner Boyd
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California 95814-5512
kchew@energy.state.ca.us

Rod Jones

Project Manager
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California 95814-5512
RJones@energy.state.ca.us

HYDROGEN ENERGY CALIFORNIA PROJECT
CEC Docket No. 08-AFC-08

Lisa De Carlo
Staff Counsel
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California 95814-5512
ldecarlo@energy.state.ca.us

Jennifer Jennings
Public Adviser's Office
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California 95814-5512
Publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, Paul Kihm, declare that on October 26, 2010, I served and filed copies of the attached:

**APPLICANT'S REQUESTS FOR EXTENSIONS OF TIME AND OBJECTIONS TO
CERTAIN DATA REQUESTS BY THE ENERGY COMMISSION STAFF REGARDING
DATA REQUEST SET THREE (NOS. 153 – 218)**

to all parties identified on the Proof of Service List above in the following manner:

California Energy Commission Docket Unit

- Transmission via electronic mail and by depositing one copy with FedEx overnight mail delivery service at Costa Mesa, California, with delivery fees thereon fully prepaid and addressed to the following:

CALIFORNIA ENERGY COMMISSION

Attn: DOCKET NO. 08-AFC-08

1516 Ninth Street, MS-4

Sacramento, California 95814-5512

docket@energy.state.ca.us

For Service to All Other Parties

- Transmission via electronic mail to all email addresses on the Proof of Service list; and
- by depositing one paper copy with the United States Postal Service via first-class mail at Costa Mesa, California, with postage fees thereon fully prepaid and addressed as provided on the Proof of Service list to those addresses **NOT** marked "email preferred."

I further declare that transmission via electronic mail and U.S. Mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 26, 2010, at Costa Mesa, California.



Paul Kihm