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Docket Number:	15-AFC-01
Project Title:	Puente Power Project
TN #:	220419
Document Title:	Applicant's Motion to Strike Portions of Interveners' Proposed Exhibit No. 4038
Description:	Interveners Sierra Club Los Padres Chapter, Environmental Coalition of Ventura County, and Environmental Defense Center
Filer:	Paul Kihm
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1 Michael J. Carroll
2 LATHAM & WATKINS LLP
3 650 Town Center Drive, 20th Floor
4 Costa Mesa, California 92626-1925
5 Tel.: (714) 540-1235
6 michael.carroll@lw.com

7 Attorneys for Applicant

8 State of California
9 Energy Resources
10 Conservation and Development Commission

11 In the Matter of:
12 Application for Certification
13 for the PUENTE POWER PROJECT

Docket No. 15-AFC-01

14 APPLICANT'S MOTION TO STRIKE
15 PORTIONS OF INTERVENERS SIERRA
16 CLUB LOS PADRES CHAPTER,
17 ENVIRONMENTAL COALITION OF
18 VENTURA COUNTY AND
19 ENVIRONMENTAL DEFENSE CENTER
20 PROPOSED EXHIBIT NO. 4038

21 Pursuant to Title 20, California Code of Regulations ("CCR") § 1211.5(a) and
22 § 1212(b)(2), Applicant hereby requests that the Committee exercise its authority under Title 20,
23 CCR § 1203(c) to exclude from the evidentiary record specified portions of interveners Sierra
24 Club Los Padres Chapter, Environmental Coalition of Ventura County and Environmental
25 Defense Center (collectively, "Intervenors") proposed Exhibit No. 4039 "Supplemental
26 Testimony of Lawrence H. Hunt" (TN #215434) on the bases that the identified portions of the
27 proposed evidence are outside the scope of the March 10, 2017 "Committee Orders for
28 Additional Evidence and Briefing Following Evidentiary Hearings" (TN #216505) (the "March
10 Orders").

By verbal motion made during the evidentiary hearing on July 26, 2017, counsel for
Intervenors requested that the Committee strike certain portions of Applicant's proposed Exhibit

1 No. 1148 “Expert Declaration of Julie Love in Response to March 10, 2017 Committee Orders”
2 (TN #219898). Specifically, Interveners requested that those portions of Appendix B of
3 Applicant’s proposed Exhibit No. 1148 (Biological Resources Survey Report) pertaining to
4 whether or not certain portions of the Project Site constituted a wetland be excluded. The basis
5 for this request was that wetland designations were not directed to be made by the Committee in
6 the March 10 Orders, and therefore those portions of proposed Exhibit No. 1148 pertaining to
7 wetland designations were not within the scope of the current evidentiary hearings, and could
8 not be entered into the evidentiary record. Interveners’ motion was granted and Applicant
9 agreed to provide a revised version of Applicant’s proposed Exhibit No. 1148 deleting the
10 discussion pertaining to wetland designations (Section 3.7 and Appendix K of Biological
11 Resources Survey Report).

12 Applying the standard for admissibility articulated by counsel for Interveners in the July
13 26, 2017 verbal motion, Applicant hereby requests that those portions of Interveners’ proposed
14 Exhibit No. 4039 pertaining to wetland designations be stricken, as well as those portions
15 pertaining to environmentally sensitive habitat area (“ESHA”) designations, which also were not
16 directed to be made by the March 10 Orders. The relevant sections of Interveners’ proposed
17 Exhibit No. 4039 are as follows:

- 18 • Wetland designations: Sections III.A, III.B, IV and V (10th and 12th bullets only)
- 19 • ESHA designations: Sections II.F, III.C, IV, and V (3rd, 4th and 11th bullets only)

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Respectfully submitted,

/s/ Michael J. Carroll

Michael J. Carroll
LATHAM & WATKINS LLP
Counsel to Applicant