

DOCKETED

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Project Title:	Hydrogen Energy Center Application for Certification Amendment
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September 3, 2013

Mr. Robert Oglesby
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

Re: **Application for Confidential Designation**
Hydrogen Energy California Power Plant (08-AFC-8A)
PSA/DEIS Informational Request CUL-3

Dear Mr. Oglesby:

Hydrogen Energy California, LLC (Applicant) proposed the Hydrogen Energy California integrated gasification combined cycle facility (08-AFC-8) on July 31, 2008 (Project). On May 2, 2012, Applicant filed an Amended AFC and a new Docket number, 08-AFC-8A, was assigned. The Preliminary Staff Assessment / Draft Environmental Impact Statement (PSA/DEIS) was issued on June 28, 2013. The PSA/DEIS identified additional information that requested for the environmental analysis.

The attached confidential data is in response to PSA/DEIS Informational Request CUL-3, including documentation of the Applicant's efforts to conduct an Extended Phase I (XPI) investigation at the applicable properties (the Confidential Record). The attached information is substantially related to confidential information that the Applicant previously proposed to staff to conduct the XPI investigation to determine if the resources in question in fact extend into the Project's direct impact area. The XPI work plan, which outlines the methodology for implementing the XPI at 10 of the 12 archaeological resources, was submitted under confidential cover to the California Energy Commission (CEC) on June 7, 2013 (Docket No. 71209).

According to the CEC's regulations, an application for confidential designation for information that is substantially similar to information that was previously deemed confidential by the CEC will be approved if the Applicant properly certifies the information, as provided herein. *See* Title 14, California Code of Regulations, § 2505(a)(4). Accordingly, Applicant

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requests that the entire Confidential Record be designated confidential as substantially similar to the information previously identified as confidential (see Docket No. 71209) .

Applicant requests that the Confidential Record not be disclosed even if aggregated with other information or redacted to conceal certain information. If the information in the Confidential Record is released to the public, there is a risk that the information could be used to loot, vandalize, or otherwise damage sensitive cultural, archaeological, historical and/or paleontological resources. 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 or others with a specific need for the information.

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,

/s/ Michael Carroll

Michael Carroll
of LATHAM & WATKINS LLP