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California Energy Commission DOCKETED 08-AFC-8A
TN # 68600 NOV. 20 2012

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:)	Docket No. 08-AFC-8A
)	
AMENDED APPLICATION FOR)	OBJECTIONS AND REQUESTS FOR
CERTIFICATION FOR THE HYDROGEN)	ADDITIONAL TIME TO RESPOND TO
ENERGY CALIFORNIA POWER PLANT)	CALIFORNIA ENERGY COMMISSION
PROJECT)	STAFF DATA REQUESTS SET 3
)	

On November 2, 2012, Staff for the California Energy Commission issued Data Requests Set No. 3 (A181-A217) for the Hydrogen Energy California Power Plant Project (“HECA”). On behalf of Hydrogen Energy California, LLC (“Applicant”), we hereby request extensions to certain of the Data Requests and make objection to others, as specified below.

Extension Requests

Applicant requests 45-day extensions to the following Data Requests to provide time for HECA to prepare the necessary information for the responses: A181(a), A183 (a)-(c), A184, A185, A192, A193, A194, A196, A197(a)-(e), A198, A199, A200(1)-(5), A201, A202, A203, A204, A205(a)-(c), A206(a)-(d), A207, A208, A209, A210, A211, and A212.

Objections

Data Requests A181(b), A186(a)-(c), A187(a)-(c)

HECA’s Application for Certification (“AFC”) and HECA’s responses to Staff’s Data Requests related to Cultural Resources provide extensive information and analysis about HECA’s potential impact on Cultural Resources. Indeed, the information presented by HECA to date constitutes a good faith disclosure of potential impacts and more than exceeds what is required by CEQA. *See Ballona Wetlands Land Trust v. City of Los Angeles*, 201 Cal. App. 4th 455, 475 (2011) (“The analysis need not be exhaustive, but it must be reasonably complete and reflect a

good faith effort at full disclosure.”). Nevertheless, Applicant will make a good faith effort to respond to the majority of Staff’s new Data Requests regarding Cultural Resources.

However, Applicant objects to Data Requests A181(b), A186(a)-(c), A187(a)-(c) for the reasons set forth below.

A181.b and A187.a-c. The CEC has requested additional information on project design/methods and potential impacts of the proposed project to built environment properties. The rail line, East Side Canal, WPA culverts and Main Drain addressed in these data requests were found not eligible for the National Register or California Register, and none are considered historical resources under CEQA [PRC 1564.5(a)]. Since CEQA requires that projects take into account potential impacts on historical resources, none of these built environment properties are historical resources as defined by CEQA, therefore no discussion regarding potential impacts to these properties is necessary in determining the significance of environmental effects to cultural resources under CEQA.

A186.a-c. CEC Cultural Resources staff has requested additional information from JRP and a certified arborist regarding the landscape features (namely trees bordering this property) as well as an evaluation of these features as potential contributing features of the site. While a description and estimated date for the landscape features should be included in the evaluation of an eligible property, the additional information requested by CEC staff would not alter the eligibility conclusions of the properties that made up Adohr Farms prior to 1948. For the trees (or other extant landscape features) to be contributors to the Adohr Farms property, the property as a whole must meet one of the National Register or California Register criteria and retain integrity. JRP evaluated this property (Map Reference No. 7) as well as the two adjacent properties formerly associated with Adohr Farms (Map Reference No. 8 and 9), and concluded that not only do these properties lack significance under all National Register or California Register criteria, they also lacked integrity. As CEC staff stated, trees bordering farm properties and their driveways are ubiquitous in the Central Valley, unlike other tree rows (such as the Rudd Road “Cross of Palms” in Kern County and Robertson Boulevard Tree Row in Chowchilla) that demarked county roads and highways and which are associated with significant events like establishment and promotion of town settlement.

DATED: November 20, 2012

Respectfully submitted,

/s/ Michael J. Carroll

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Counsel to Applicant

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

In the Matter of:)	Docket No. 08-AFC-08A
)	
REVISED APPLICATION FOR)	PROOF OF SERVICE
CERTIFICATION FOR THE HYDROGEN)	
ENERGY CALIFORNIA POWER PLANT)	(October 8, 2012)
PROJECT (“HECA”))	
_____)	

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

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CEC Docket No. 08-AFC-08A

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DECLARATION OF SERVICE

I, Susan V. Low, declare that on November 20, 2012, I served and filed copies of the attached:

**APPLICANT'S OBJECTIONS AND REQUESTS FOR ADDITIONAL TIME TO
RESPOND TO CALIFORNIA ENERGY COMMISSION STAFF DATA REQUESTS
SET 3**

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

California Energy Commission Docket Unit

Transmission via electronic mail to:

CALIFORNIA ENERGY COMMISSION
Attn: DOCKET NO. 08-AFC-08A
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.

I declare under penalty of perjury that the foregoing is true and correct. Executed on
November 20, 2012, at Costa Mesa, California.

/s/ Susan V. Low

Susan V. Low