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

Michael J. Carroll
LATHAM & WATKINS LLP
Counsel to Applicant
STATE OF CALIFORNIA  
ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:  
REVISED APPLICATION FOR  
CERTIFICATION FOR THE HYDROGEN  
ENERGY CALIFORNIA POWER PLANT  
PROJECT (“HECA”)  
Docket No. 08-AFC-08A

PROOF OF SERVICE  
(October 8, 2012)

APPLICANT

Marisa Mascaro  
SCS Energy LLC  
30 Monument Square, Suite 235  
Concord, MA 01742  
mmascaro@scsenergyllc.com

Tiffany Rau  
2629 Manhattan Avenue, PMB# 187  
Hermosa Beach, CA 90254  
Trau@heca.com

George Landman  
Director of Finance and Regulatory Affairs  
Hydrogen Energy California, LLC  
500 Sansome Street, Suite 750  
San Francisco, CA 94111  
glandman@heca.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
INTERESTED AGENCIES

California ISO  
**e-recipient@caiso.com**

**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 Irritated Residents  
30100 Orange Street  
Shafter, CA 93263  
**tfrantz@bak.rr.com**

**Andrea Issod**  
**Matthew Vespa**  
Kern-Kaweah Chapter  
Of the Sierra Club  
85 Second St, Second Floor  
San Francisco, California 94105  
**andrea.issod@sierraclub.org**  
**matt.vespa@sierraclub.org**

**Timothy O’Connor, Esq.**  
Environmental Defense Fund (EDF)  
1107 Ninth St., Suite 540  
Sacramento, CA 95814  
**toconnor@edf.org**
George Peridas
Natural Resources Defense Council
111 Sutter Street, 20th Fl.
San Francisco, CA 94104
gperidas@nrdc.org

Benjamin McFarland
Kern County Farm Bureau, Inc.
801 South Mt. Vernon Avenue
Bakersfield, CA 93307
bmcfarland@kerncfb.com

ENERGY COMMISSION – DECISION MAKERS

Karen Douglas
Commissioner and Presiding Member
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California 95814-5512
karen.douglas@energy.ca.gov

Andrew McAllister
Commissioner and Associate Member
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California 95814-5512
andrew.mcallister@energy.ca.gov

Raoul Renaud
Hearing Advisor
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California 95814-5512
raoul.renaud@energy.ca.gov

Eileen Allen
Commissioner’s Technical Advisor
For Facility Siting
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California 95814-5512
eileen.allen@energy.ca.gov
Galen Lemei  
Advisor to Presiding Member  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
galen.lemei@energy.ca.gov

Jennifer Nelson  
Advisor to Presiding Member  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
jennifer.nelson@energy.ca.gov

David Hungerford  
Advisor to Associate Member  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
david.hungerford@energy.ca.gov

Pat Saxton  
Advisor to Associate Member  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
patrick.saxton@energy.ca.gov

ENERGY COMMISSION – STAFF

Robert Worl  
Project Manager  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
robert.worl@energy.ca.gov

John Heiser  
Associate Project Manager  
CALIFORNIA ENERGY COMMISSION  
1516 Ninth Street  
Sacramento, California 95814-5512  
john.heiser@energy.ca.gov
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

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Susan V. Low