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CONFIDENTIAL

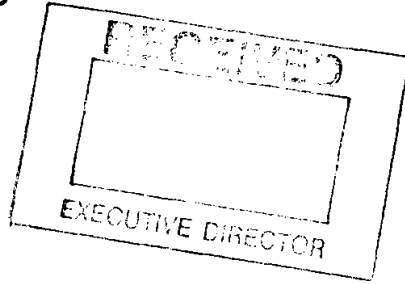
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LATHAM & WATKINS LLP

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September 17, 2007



COMPLETED

Mr. John S. Kessler
Project Manager
California Energy Commission
1515 Ninth Street
Sacramento, CA 95814-5512

File No. 03961-0001

DOCKET
07-AFC-1
DATE SEP 17 2007
RECD. SEP 17 2007

Re: Victorville 2 Hybrid Power Project, Docket No. 07-AFC-1 -- Correction of Error in Primary Records; Submission of New Archaeological Site Records; Revision to Figure 5; Confirmation of Archeological Test Plan; Request for Confidential Designation

Dear Mr. Kessler:

On behalf of the City of Victorville (the "Applicant"), we are writing to correct an error in a past submittal in the California Energy Commission ("CEC" or the "Commission") Victorville 2 Hybrid ("VV2") Power Project proceeding. As part of the Application for Certification, William Self Associates ("WSA"), a subcontractor on the Applicant's consulting team, completed 23 Primary Record forms to document its cultural resource assessment for the VV2 project and submitted the forms to the Commission under confidential cover. Subsequently, in preparing material in response to a CEC Data Request, WSA discovered that in its original submittal, the first page of 17 primary records and the first page of an update to a previously recorded site contained the same error: each erroneously described the subject site as being on the east side of the Mojave River, instead of on the west side of the river. WSA has corrected the error and the revised first pages of the 17 corrected Primary Record forms and the first page of the Continuation Sheet updating site SBR-10951H are enclosed.

WSA is also writing to confirm the Applicant's acceptance of the Commission's changes to the archeological test plan for two housing sites (VV2-17 and VV2-19) and a prehistoric site (VV2-23). Under confidential cover, the Applicant submitted a test plan for archeological testing, as required by CEC Data Request Set 1, Nos. 46 – 48, on July 23, 2007. CEC cultural resources consultant Mike Lerch indicated at the August 8, 2007 workshop in Victorville that the Commission finds the Applicant's proposed test plan acceptable, with two minor modifications: (1) offset test units at VV2-17 and VV2-19 in order to excavate one half of the privies and expose the other half (thus leaving the materials in the sidewall intact for further study), and (2) ensure that test excavation reaches a depth of 1.5 meters at VV2-23. The Applicant agrees to

implement the suggested changes, believes that the test plan for the three sites is approved with the two revisions, and will proceed with the archeological testing.

In the August 8, 2007 workshop in Victorville, Mike Lerch also requested that Figure 5, which was submitted under confidential cover in response to CEC Data Request 1, Nos. 29, 38, and 45, be revised to include all previously recorded archeological sites within 1,000 feet of project components (1,000 feet from the centerline of all linears). The revised Figure 5 is enclosed in this submittal.

Mr. Lerch also requested that WSA prepare Archaeological Site Records to supplement 27 of the Primary Records WSA submitted under confidential cover on March 8, 2007 as *Appendix E, (State of California DPR 523 Forms)* of the *Draft Confidential Cultural Resources Assessment Report, Victorville 2 Hybrid Power Project, San Bernardino County, California*. Twenty-seven Archaeological Site Records are enclosed in this submittal.

The Applicant requests that the Commission designate the information contained in this submittal as confidential pursuant to 20 C.C.R. Section 2502. In support of its application for confidential designation, we provide the following information:

APPLICANT: City of Victorville
ADDRESS: City Hall
14343 Civic Drive
Victorville, CA 92393

1(a). Title, date and description (including number of pages) of the record for which you request confidential designation.

- Page 1, Primary Record for VV2 Site 6 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 7 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 8 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 9 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 10 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 11 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 12 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 13 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 14 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 15 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 16 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 17 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 18 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 19 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 20 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 21 – to replace page 1 of original submittal.
- Page 1, Primary Record for VV2 Site 22 – to replace page 1 of original submittal.
- Page 1, Continuation Sheet (Update) for SBR-10951H (VV2 Site 23) – to replace page 1 of original submittal.

Page 1, Primary Record for VV2 Site 23 – to replace page 1 of original submittal.

Figure 5 Survey Results Map (Maps 1-5) – 5 pages

The following Archaeological Site Record forms should be appended to the respective Primary Record forms submitted as Appendix D of the *Draft Confidential Cultural Resources Assessment Report, Victorville 2 Hybrid Power Project, San Bernardino County, California*:

Archaeological Site Record, VV2-Site 1 – 1 page
Archaeological Site Record, VV2-Site 2 – 1 page
Archaeological Site Record, VV2-Site 17 – 1 page
Archaeological Site Record, VV2-Site 19 – 2 pages
Archaeological Site Record, VV2-Site 21 – 1 page
Archaeological Site Record, VV2-Site 23 – 2 pages
Archaeological Site Record, VV2-Site 24 – 1 page
Archaeological Site Record, VV2-Site 25 – 1 page
Archaeological Site Record, VV2-Site 26 – 1 page
Archaeological Site Record, VV2-Site 27 – 1 page
Archaeological Site Record, VV2-Site 28 – 1 page
Archaeological Site Record, VV2-Site 29 – 1 page
Archaeological Site Record, VV2-Site 30 – 1 page
Archaeological Site Record, VV2-Site 31 – 1 page
Archaeological Site Record, VV2-Site 33 – 1 page
Archaeological Site Record, VV2-Site 34 – 1 page
Archaeological Site Record, VV2-Site 35 – 1 page
Archaeological Site Record, VV2-Site 36 – 1 page
Archaeological Site Record, VV2-Site 37 – 1 page
Archaeological Site Record, VV2-Site 38 – 1 page
Archaeological Site Record, VV2-Site 39 – 1 page
Archaeological Site Record, VV2-Site 40 – 1 page
Archaeological Site Record, VV2-Site 41 – 1 page
Archaeological Site Record, VV2-Site 42 – 1 page
Archaeological Site Record, VV2-Site 43 – 1 page
Archaeological Site Record, VV2-Site 44 – 1 page

1(b). *Specify the part(s) of the record for which you request confidential designation.*

All Primary Record forms, all Archaeological Site Record forms, Figure 5, Maps 1 - 5

2. *State and justify the length of time the Commission should keep the record confidential.*

The Primary Record forms, the Archaeological Site Record forms, and maps 1 – 5 of Figure 5 should be kept confidential indefinitely to protect potential cultural resources sites. If the descriptions of the locations of the sites are released to the public domain, there is a risk of looting.

- 3(a). *State the provisions of the Public Records Act or other law that allows the Commission to keep the record confidential, and explain why the provision(s) apply to the record.*

The Primary Record forms, the Archaeological Site Records, and maps 1 -5 of Figure 5 specifically identify site locations and areas of potential cultural significance. They are thus protected under Government Code Sections 6254 (e) and 6254(k). Protection provided is analogous to that given to Native American sacred places under Section 6254 (r) of the Government Code.

- 3(b). *Discuss the public interest in nondisclosure of the record. If the record contains trade secrets or its disclosure would otherwise cause loss of a competitive advantage, please also state how it would be lost, the value of the information to the applicant, and the cost or difficulty with which the information could be legitimately acquired or duplicated by others.*

The public interest will be served by nondisclosure by preventing looting of the cultural resource sites described in the Primary Record forms and the Archaeological Site Record forms, and depicted in maps 1 – 5 of Figure 5. Such looting would preclude scientific study of the sites to obtain data about the cultural resource areas.

4. *State whether the record may be disclosed if it is aggregated with other information or masked to conceal certain portions (including but not limited to the identity of the applicant). State the degree of aggregation or masking required. If the data cannot be disclosed even if aggregated or masked, explain why.*

The Applicant believes CEC staff will require the specific information contained in the confidential version of the Primary Record forms, the Archaeological Site Record forms, and maps 1 -5 of Figure 5 to properly perform its analysis. Aggregation of information would hinder a complete CEC analysis. The Applicant believes, however, that the CEC can incorporate a generalized summary of the information contained in the Primary Record forms, the Archaeological Site Record forma and maps 1 -5 of Figure 5 to properly state the basis for its analysis without disclosing information specific enough to facilitate looting.

5. *State how the record is kept confidential by the applicant and whether it has ever been disclosed to a person other than an employee of the applicant. If it has, explain the circumstances under which disclosure occurred.*

The Applicant has not disclosed any of the subject information to anyone other than its employees, contractors, attorneys, and consultants working on the VV2 Power Project. It will be marked "Confidential," stored separately from other VV2 Project files, and will be made available on a "need-to-know" basis as determined by a designated representative of the City or its consultants/attorneys/contractors.

LATHAM & WATKINS LLP

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 and that I am authorized to make the application and certification.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mike Carroll". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Michael J. Carroll
of LATHAM & WATKINS

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

In the Matter of:)	Docket No. 07-AFC-1
)	
Application for Certification,)	ELECTRONIC PROOF OF SERVICE
for the VICTORVILLE 2)	LIST
HYBRID POWER PROJECT)	
by the City of Victorville)	(revised August 22, 2007)
)	
)	

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

DOCKET UNIT

CALIFORNIA ENERGY COMMISSION

Attn: DOCKET NO. 07-AFC-1
1516 Ninth Street, MS-4
Sacramento, California 95814-5512
docket@energy.state.ca.us

Transmission via electronic mail addressed to the following:

APPLICANT

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P.O. Box 5001
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JRoberts@ci.victorville.ca.us

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VICTORVILLE II HYBRID POWER PROJECT
CEC Docket No. 07-AFC-1

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ENERGY COMMISSION

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DECLARATION OF SERVICE

I, Paul Kihm, declare that on September 17, 2007, I deposited the required original signed copy of the attached:

APPLICANT'S LETTER TO CEC RE CONFIDENTIAL FILING

with FedEx overnight mail delivery service at Costa Mesa, California with delivery fees thereon fully prepaid and addressed to the California Energy Commission. I further declare that transmission via electronic mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. All electronic copies were sent to all those identified on the Proof of Service List above.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 17, 2007, at Costa Mesa, California.



Paul Kihm