

CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET
SACRAMENTO, CA 95814-5512

December 5, 2008

Gregory Skannal
Hydrogen Energy International
One World Trade Center, Ste. 1600
Long Beach, CA 90831

DOCKET	
08-AFC-8	
DATE	DEC 05 2008
RECD.	DEC 05 2008

RE: **Potential Site Locations, Application for Confidentiality,
Hydrogen Energy International, LLC,
Docket No. 08-AFC-8**

Dear Mr. Skannal:

On November 3, 2008, Hydrogen Energy International, LLC, filed an application for confidentiality on behalf of the Hydrogen Energy California ("HECA") project (Docket No. 08-AFC-8). The application seeks confidentiality for the potential new project site locations for the HECA project. These potential new site locations were submitted in response to California Energy Commission ("Commission") staff requests for additional information. HECA states that the information:

... is a special compilation of information developed by Hydrogen Energy which provides it with an advantage over potential competitors who have not developed such a compilation of information. Furthermore, disclosure of potential project site locations may hinder current and future negotiations.

A properly filed application for confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the [Energy] Commission to keep the record confidential."

Section 6254.7(d) of the Public Records Act defines "Trade Secrets" as:

any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it. Gov. Code, §6254.7(d).

The sites that HECA are considering as potential project sites are part of a plan or process known only to HECA, which have a commercial value, or which may give HECA a commercial advantage over competitors who do not know the location of potential power plant sites. Therefore, HECA's November 3, 2008, confidentiality

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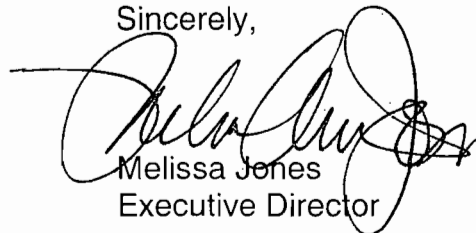
application for the potential new project site locations for the HECA project is granted in its entirety.

HECA requests that the information be kept secret for 12 months from the date the Commission received the information. The information will be kept secret for 12 months from the date of this letter. However, please be advised that as part of the Commission's Power Plant Siting process, certain information must be deemed public in order to allow for adequate public and agency review. If the information covered by this application becomes part of an Application for Certification, pursuant to Public Resources Code section 25500, et seq., the information regarding the selected project site and potential alternative sites will need to be disclosed to the public.

Any subsequent submittals related to potential site locations can be deemed confidential as specified in this letter without the need for a new application under California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4), if you file a certification under penalty of perjury that the new information is substantially similar to the information granted confidentiality by this determination.

Be advised that persons may petition to inspect or copy records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506. If you have any questions concerning this matter, please contact Deborah Dyer, Senior Staff Counsel, at (916) 654-3870.

Sincerely,



Melissa Jones
Executive Director

cc: Docket Unit
Rod Jones, Energy Commission Project Manager