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LATHAM & WATKINS LLP

 ORIGINAL

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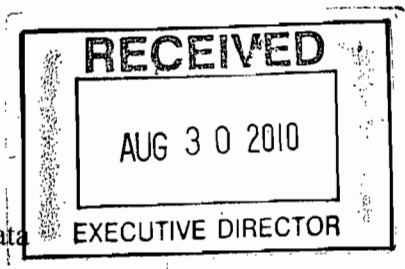
Ms. Melissa Jones
Executive Director
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814

COMPLETED

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Re: **Application for Confidential Designation –
Hydrogen Energy California (08-AFC-8) –
Cultural, Archaeological, and Paleontological Resources Data
Associated With HECA Linear Modifications Submittal**



Dear Ms. Jones:

Hydrogen Energy California LLC (“Applicant”) has proposed the Hydrogen Energy California integrated gasification combined cycle facility (08-AFC-8) (“HECA”) with the California Energy Commission (CEC). During the April 12, 2010 workshop for the HECA project, CEC staff identified potential issues associated with segments of the natural gas and potable water pipelines that transected portions of the Coles Levee Ecosystem Preserve. To fully address these potential issues, the Applicant has proposed certain modifications to the Project linears, details of which were filed with the CEC on August 26, 2010 (“HECA Linear Modification Submittal”).

In a separate letter to you dated August 27, 2010, we prepared a separate request on behalf of the Applicant for temporary confidential designation of the HECA Linear Modification Submittal. However, the following documents within the HECA Linear Modification Submittal include sensitive data related to cultural, archaeological and paleontological resources that we request be permanently maintained as confidential: Appendix B of the HECA Linear Modification Submittal, *Archaeological Survey Report Addendum (Confidential)*; and Appendix C of the HECA Linear Modification Submittal, *Paleontological Resources Supplemental Survey Report Addendum (Confidential)* (combined, the “Submitted Record”).

On behalf of the Applicant, we request that the Submitted Record be designated confidential, and be permanently maintained as confidential, pursuant to California Government Code § 6254(r). The Submitted Record contains sensitive information related to cultural,

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paleontological, archaeological or historical objects, structures, landscapes, resources, sacred places, or sites of concern to local Native Americans or other ethnic groups, or resources or objects described in California Public Resources Code §§ 5097.9 or 5097.993. If the information in the Submitted 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, or paleontological resources.

According to the Energy Commission's regulations, an application for confidential designation "shall be granted if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential." (Title 14, California Code of Regulations, § 2505(a)(3)(A).) The Applicant believes this letter establishes a reasonable claim for confidentiality based on the applicability of Government Code § 6254(r).

To ensure the long-term protection of the cultural, archaeological, or paleontological resources from looting, vandalism or other degradation, the Applicant requests that the entirety of the Submitted Record be kept confidential indefinitely, and that the Submitted Record not be disclosed even if aggregated with other information or redacted to conceal certain information. 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 before the Energy Commission, or others with a specific need for the information. This information has not been disclosed by the Applicant except on a "need-to-know" basis.

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,

Marc Campopiano 

Marc Campopiano
of LATHAM & WATKINS LLP

cc:

Gregory Skannal, Hydrogen Energy California LLC
Asteghik Khajetoorians, Hydrogen Energy California LLC
Dale Shileikis, URS Corporation
Kathy Rushmore, URS Corporation