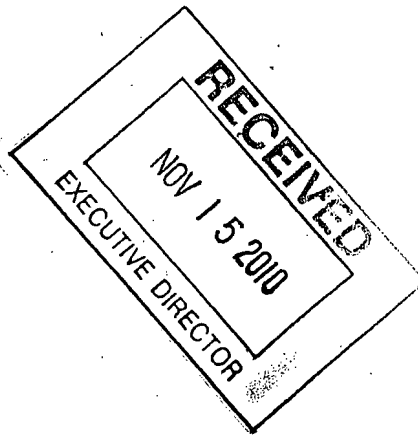


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November 12, 2010

ORIGINAL

VIA FEDEX

COMPLETED

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

DOCKET 08-AFC-8
DATE <u>NOV 12 2010</u>
RECD. <u>11/15 2010</u>

Re: **Application for Confidential Designation – Hydrogen Energy California Power Plant (08-AFC-8) Responses to CEC Data Request Set Three: Nos. 155 and 156 (attachments), 158 and 159 (figures)**

Dear Ms. Jones:

Hydrogen Energy International, LLC (“Applicant”) has proposed the Hydrogen Energy California Power Plant (08-AFC-8). In support of the Applicant’s response to California Energy Commission Staff Data Request Nos. 155, 156, 158, and 159, the Applicant has submitted several technical reports, maps, and GIS data files that depict sensitive information about potential cultural resources (the “Submitted Record”).

The Applicant requests that the Submitted Record be designated confidential, and be permanently maintained as confidential, pursuant to California Government Code § 6254(r), which exempts certain information related to paleontological or cultural resources from disclosure under the California Public Records Act. The Submitted Record contains sensitive information potentially related to paleontological, archaeological or historical objects, structures, landscapes, resources, or sites of concern to local Native American or other ethnic groups, or resources 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 of looting or damage to the 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

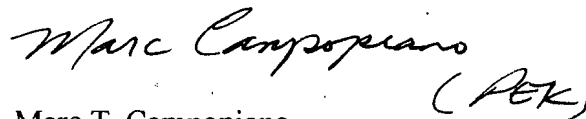
LATHAM & WATKINS^{LLP}

14, California Code of Regulations, § 2505(a)(3)(A) (emphasis added).) Applicant believes this letter establishes a reasonable claim for confidentiality under Gov. Code § 6254(r).

The Applicant requests that the entirety of the Submitted Record be kept confidential indefinitely. The Applicant requests 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 T. Campopiano
of LATHAM & WATKINS LLP

Enclosures

cc: Gregory Skannal, Hydrogen Energy California, LLC (w/o encls.)
Asteghik Khajetoorians, BP America, Inc. (w/o encls.)
Dale Shileikis, URS Corporation (w/o encls.)

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

In the Matter of:) Docket No. 08-AFC-08
)
APPLICATION FOR CERTIFICATION,) **PROOF OF SERVICE**
FOR THE HYDROGEN ENERGY)
CALIFORNIA PROJECT BY HYDROGEN) (October 21, 2010)
ENERGY INTERNATIONAL, LLC)
)
_____)

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

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