

## DOCKETED

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STATE OF CALIFORNIA  
ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF: ) DOCKET NO. 08-AFC-08A  
)  
APPLICATION FOR CERTIFICATION, ) APPLICANT'S STATUS REPORT NO. 8  
FOR THE HYDROGEN ENERGY )  
CALIFORNIA PROJECT BY HYDROGEN )  
ENERGY CALIFORNIA LLC )  
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On August 9, 2013, the Committee for the Hydrogen Energy California Project (Project) requested that parties file status reports addressing five specific issues, including recommendations for changes to the Committee Schedule. On behalf of Hydrogen Energy California LLC (HECA or Applicant), this Status Report No. 8 provides the information requested by the Committee.

**1. RECOMMENDATIONS REGARDING CHANGES TO THE CURRENT COMMITTEE SCHEDULE**

The Applicant appreciates the efforts by staff for the California Energy Commission (CEC) and U.S. Department of Energy (DOE) that went into publishing the Preliminary Staff Assessment /Draft Environmental Impact Statement (PSA/DEIS) on June 28, 2013. As discussed below, the Applicant is actively providing information to staff based on requests identified in the PSA/DEIS, including the Applicant's initial submittal on August 9, 2013. *See* Docket No. 200144. The Applicant looks forward to continuing to work with staff to resolve outstanding issues, including at upcoming public workshops.

The Applicant proposes the following schedule with the goal of providing ample time for the public to review the PSA/DEIS and for agency staff to prepare the Final Staff Assessment / Final Environmental Impact Statement (FSA/FEIS), while allowing a final decision on the Project within a reasonable period of time.

	<b>Activity</b>	<b>Current Date (Actual or 3/27/13 Order)</b>	<b>Proposed Date</b>
1	Amended Application for Certification was submitted	May 2, 2012	
2	Informational Hearing and Site Visit	July 12, 2012	
3	San Joaquin Valley Air Pollution Control District (SJVAPCD) issued Preliminary Determination of Compliance (PDOC)	February 2, 2013	
4	Status Reports Filed	April 1, 2013	
5	Status Reports Filed	April 9, 2013	
6	Preliminary Staff Assessment /Draft Environmental Impact Statement (PSA/DEIS) filed	June 28, 2013	
7	SJVAPCD issued Final Determination of Compliance	July 8, 2013	
8	PSA/DEIS workshops	September 17-19, 2013	
9	Committee Conference	September 18, 2013	
10	Comments on PSA/DEIS are due; Parties file Status Reports		October 1, 2013
11	Final Staff Assessment/Final Environmental Impact Assessment (FSA/FEIS) filed		December 2, 2013
12	Prehearing Conference		December 16, 2013
13	Evidentiary Hearings		January 13, 2014
14	Presiding Member Proposed Decision		February 24, 2014
15	California Energy Commission issues Final Decision		March 24, 2014

## **2. JUSTIFICATION FOR THE REQUESTED CHANGES TO THE COMMITTEE SCHEDULE**

The Applicant proposes this schedule with the goal of providing ample time for the public to review and comment on the PSA/DEIS and for agency staff to gather additional information, complete its review of the Project and prepare the FSA/FEIS. Based on the proposed schedule, the comment period will run for 95 days, over two times longer than a typical comment period, and the FSA/FEIS would be published over five months after the PSA/DEIS.

The Applicant also proposes this schedule based on critical time constraints driven by the Project's financing. First, the Department of Energy may provide approximately \$408 million in financial assistance to the Project under the Clean Coal Power Initiative Round 3 program, including funding under the American Recovery and Reinvestment Act of 2009, *provided that*

the Project meets the applicable funding requirements. Most notably, to obtain the financial assistance, the Project must expend the American Resource and Recovery Act portion of its Clean Coal Power Initiative funds by no later than September 30, 2015. To meet this timing constraint, the Project requires approvals from the CEC and DOE by the second quarter of 2014 to allow investors adequate time to complete their diligence of the Project and for the financing to close and construction to begin. We emphasize that the financial diligence for this Project will be compressed even assuming the Applicant's proposed schedule.

Second, the Project anticipates receiving funding from the Japan Bank for International Cooperation (JBIC). The JBIC funding effort will require a substantial level of diligence after the CEC and DOE approvals, which must be completed *before* the CCPI and ARRA deadlines can be met.

Third, the Project anticipates benefitting from certain federal tax incentives pursuant to Section 48A of the Internal Revenue Code for power plants that demonstrate carbon, capture and sequestration technologies. The tax credits do not remain available indefinitely. To utilize its tax credits, the Project must meet a two year certification milestone from the date of the tax credit award. The certification can be met by a number of events including a binding contract for its steam turbine or full project financing. For use of the tax credit allocated to HECA under 48A Phase II, we will need to prove certification by March 29, 2014 and by May 15, 2015 for use of its 48A Phase III allocation.

### **3. CURRENT AND FUTURE PLANNED ACTIVITIES WITH RESPECT TO THE REVIEW OF THE PROJECT**

#### **A. RESPONSES TO DATA AND WORKSHOP REQUESTS**

Applicant has completed a number of responses to data requests since the filing of Applicant's Status Report No. 7, including the following:

- On May 20, 2013, Applicant submitted Updated Emissions and Modeling Report. *See* Docket No. 70895.
- On May 20, 2013, Applicant submitted Comments on the SJVAPCD Preliminary Determination of Compliance. *See* Docket No. 70894.
- On June 7, 2013, Applicant submitted Application for Confidential Designation - Extended Phase I Work Plan. *See* Docket No. 71209.
- On June 10, 2013, Applicant submitted Response to Comments on the Hydrogen Energy California Wetland Delineation. *See* Docket No. 71247.
- On June 28, 2013, Applicant submitted Comments to Intervenor Sierra Club's May 30th Comments on the Preliminary Determination of Compliance. *See* Docket No. 71459.
- On August 1, 2013, Applicant submitted Traffic Study Technical Memorandum (Revision 2). *See* Docket No. 200107.

- On August 1, 2013, Applicant submitted OEHI Jurisdictional Delineation. *See* Docket No. 200102.
- On August 9, 2013, Applicant submitted Responses to PSA/DEIS Information Requests, Set 1. *See* Docket No. 200144.
- On August 16, 2013, Applicant submitted Proposed List of Outstanding Issues for Consideration at the Upcoming Public Workshops. *See* Docket No. 200207.

## **B. AGENCY COORDINATION**

Applicant has continued to actively engage in agency coordination since the filing of Applicant's Status Report No. 7, including the following coordination efforts:

- On June 13, 2013, Applicant attended a Kern County Planning Commission Hearing regarding Williamson Act cancellation.
- On June 19, 2013, Applicant conducted a project site tour with USACE staff.
- On June 25, 2013, Applicant attended a Kern County Planning Commission Hearing regarding Williamson Act cancellation.
- On June 26, 2013, Applicant met with City of Wasco Planning Department.
- On June 27, 2013, Applicant met with Caltrans District 6 in Fresno, CA to discuss traffic mitigation.
- On July 23, 2013, Applicant attended a Kern County Board of Supervisors hearing on Kern County Department's mitigation recommendations.

## **C. ADDITIONAL PLANNED ACTIVITIES**

The following additional activities are anticipated by the Applicant or applicable agencies:

- By August 30, 2013, submit second set of Responses to PSA/DEIS Information Requests to CEC.
- On September 17, 18 and 19, 2013, attend PSA/DEIS Workshops.
- On September 18, 2013, attend CEC Committee Conference.

## **4. INFORMATION NEEDED TO COMPLETE PROJECT REVIEW**

The Applicant will continue to respond in a timely manner to all information requests in order to facilitate the review of the Project. As stated above, the Applicant has submitted a Proposed List of Outstanding Issues for Consideration at the Upcoming Public Workshops and

Responses to PSA/DEIS Information Requests, Set 1. The Applicant intends to submit PSA comments and a second set of Responses to Information Requests in the coming weeks.

The Applicant believes that it would be productive for the CEC staff to meet with the Buena Vista Water Storage District staff regarding water supply issues prior to the PSA/DEIS Workshops in September. The Applicant request that the Committee direct the CEC staff to hold such a meeting.

## **5. OTHER MATTERS**

Applicant has completed a number of public outreach activities since the filing of Applicant's Status Report No. 7, including the following:

- The Greater Bakersfield Chamber of Commerce and the Kern Economic Development Corporation each issued a public letter of support for the HECA project.
- Applicant responded to media inquiries related to the publication of the CEC Preliminary Staff Assessment and the San Joaquin Valley Air Pollution Control District's Final Determination of Compliance
- Applicant presented an educational overview of the HECA project to the Kiwanis Club of Kern County on June 13<sup>th</sup>.
- Applicant provided sponsorship to the Buttonwillow Pioneer Seniors fundraiser for their ice cream social and raffle drawing on July 19th.
- Applicant became a member of the Kern County Hispanic Chamber of Commerce and North of River Chamber of Commerce.
- Applicant continued participation in the local B-Safe program and the Buttonwillow Resource Center, including hosting monthly B-safe advisory committee meetings at the HECA Information Center
- Applicant ran an educational advertisement in the Kern Business Journal August/September publication.
- Applicant presented an educational overview of the HECA project at the Taft Chamber of Commerce and the Rotary Club of Taft on July 24<sup>th</sup>.
- Taft Midway Driller published a story on July 27<sup>th</sup>, titled "HECA plant could be running by 2019." The article covered progress of the HECA project and a visit by the Applicant to local civic groups.
- Applicant will participate in the Buttonwillow Community Clean Up Day on Saturday, August 24<sup>th</sup>.

DATED: August 23, 2013

Respectfully submitted,

*/s/ Michael Carroll*

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Counsel to Applicant