

## DOCKETED

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STATE OF CALIFORNIA  
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In the Matter of:

REVISED APPLICATION FOR  
CERTIFICATION  
FOR THE HYDROGEN ENERGY  
CALIFORNIA PROJECT

Docket No. 08-AFC-08A

REPLY TO INTERVENORS' JOINT  
RESPONSE OBJECTING TO APPLICANT'S  
REQUEST FOR SUSPENSION

On May 5, 2015, Hydrogen Energy California LLC ("HECA") filed a Request for Suspension of the Application for Certification ("AFC") proceeding for the Hydrogen Energy California Project, 08-AFC-08A (TN# 204500). On behalf of HECA, we respectfully submit this Reply to Intervenors' Joint Response to Applicant's Request for Suspension, which was filed on May 20, 2015 (TN# 204671-1).

HECA does not agree with Intervenors' characterization of the Request for Suspension. Contrary to the assertion that the request is an "attempt to buy more time to revive a dead project," HECA has diligently engaged in a sustained effort to consummate a CO<sub>2</sub> offtake agreement for the Project and thereby advance review of the AFC. Indeed, the very purpose of the request was to temporarily suspend the proceeding given events completely outside the

control of HECA—events which prevented a CO<sub>2</sub> offtake agreement with California Resources Corporation. Despite this setback, HECA has continued efforts to identify alternative CO<sub>2</sub> offtakers, and such efforts remain sustained and ongoing. For a detailed discussion of HECA’s recent activities to pursue and obtain a successful CO<sub>2</sub> offtake agreement, please see the Declaration of James L. Croyle in Support of Applicant’s Response to the Motion to Terminate, filed on May 26, 2015.

While HECA respects the concerns expressed by Intervenors and their supporters, it is important to recognize that the Project is a permitted use under existing general plan designations and zoning requirements applicable to the Project site (Preliminary Staff Assessment/Draft Environmental Impact Statement (“PSA/DEIS”), TN# 71444, p. 4.6-5 – 4.6-6). Further, the Project is separated from adjacent uses by a 653-acre buffer area (PSA/DEIS, p. 1-17). With respect to potential impacts on the surrounding community, CEC Staff’s independent preliminary analysis concluded: “Staff has assessed the potential for localized impacts and regional impacts for both the project’s construction and operation. As a product of this analysis staff has recommended mitigation and monitoring requirements sufficient to reduce the potential adverse construction and operating emission impacts to less than significant” (PSA/DEIS, p. 4.1-1). In addition, “Staff has analyzed potential public health risks associated with construction and operation of the Hydrogen Energy California (HECA) project and does not expect a significant risk of cancer or any adverse short- or long-term noncancer health effects from project toxic emissions” (PSA/DEIS, 4.8-1). We recognize that these conclusion are preliminary, however, they suggest that Intervenors’ concerns are unfounded.

As for the amount of time that the AFC has been under review, the Project includes certain components not typical of CEC jurisdictional projects, and is somewhat more complex than a standard power plant. The CEC review process is extremely thorough, and designed to

ensure adequate opportunity for CEC Staff review and analysis, as well as participation by members of the public and other state and local agencies. In addition, given the federal funding involved in the Project, the review process is a joint state and federal undertaking by the CEC and the U.S. Department of Energy. Under the circumstances, the duration of the review period is not unreasonable and is not a basis for denying HECA's request for a suspension.

HECA also objects to Intervenor's alternative argument that the Committee should impose highly detailed conditions before granting the Request for Suspension. In the absence of specific knowledge regarding a potential CO<sub>2</sub> offtake agreement, and what additional analysis might be required, it is impossible for the Committee to determine the reasonableness of the timeline proposed by Intervenor. Instead, HECA respectfully requests that the Committee grant HECA's Request for Suspension with the condition that the Committee will issue a revised scheduling order to establish appropriate milestones and deadlines after the suspension period has expired, when more information will be available about the status of the CO<sub>2</sub> offtake agreement.

Dated: May 27, 2015

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