

## DOCKETED

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APPEARANCES

Commissioners Present

Karen Douglas, Presiding Member  
Andrew McAllister, Associate Member  
Jennifer Nelson, Adviser to Commissioner Douglas  
Le-Quyen Nguyen, Adviser to Commissioner Douglas  
Pat Saxton, Adviser to Commissioner McAllister  
Eileen Smith, Commissioner's Technical Adviser for  
Facility Siting

Hearing Officer

Raoul Renaud

Staff Present

Jared Babula, Staff Counsel  
John Heiser, Project Manager  
Shawn Pittard, Public Adviser's Office  
Rick Alexander

(\* Via Phone)

Petitioner - Hydrogen Energy California, LLC

James Croyle, Hydrogen Energy California, LLC  
\*Michael J. Carroll, Latham & Watkins  
\*Mark Campopiano, Latham & Watkins

Intervenors Present

Tom Frantz, Association of Irrigated Residents  
Chris Romanini, HECA Neighbors  
Andrea Issod, Staff Attorney, Sierra Club

Government Agencies Present

Sara Nichols, California Air Resources Board  
\*Mary Jane Coombs, California Air Resources Board  
\*Robert Habel, California Department of Conservation,  
DOGGR  
\*Todd Taylor, Kern County Planning Commission  
\*Claire Smith, USDOE

APPEARANCES (CONTINUED)

Public Speakers

Mark Lamboy  
Marian Vargas  
Christina Snow  
Ted Walker  
Rogelio Vargas  
\*Evan Gillespie

1

P R O C E E D I N G S

2 MAY 6, 2015

12:05 P.M.

3 HEARING OFFICE RENAUD: Ladies and  
4 Gentlemen, my name is Raoul Renaud. I'm the  
5 Hearing Office for the Hydrogen Energy California  
6 AFC here at the Energy Commission. And I am  
7 speaking to you just to make kind of a  
8 housekeeping announcement.

9 As you may have noticed we tried to set  
10 up simultaneous Spanish translation for this  
11 meeting. And we have it here for people in the  
12 room who would like it. We also tried to set it  
13 up to go out over our WebEx system, over  
14 telephone and computer. In trying to start that  
15 meeting -- both of those meetings today we've  
16 learned that you can only run one at once.

17 So what we've done is we've opened the  
18 Spanish meeting. We're waiting to see if anybody  
19 tries to come into the Spanish-speaking meeting  
20 from the outside world. If they do they will get  
21 the message that's up on the screen which is  
22 the -- an alternate meeting number. And that  
23 will tell them then they should hang up and  
24 redial and get that new meeting number. So we're  
25 going to give them -- give people about ten

1 minutes, until about 12:10, to do that. And then  
2 we will get underway. So you have about five  
3 minutes before we start.

4 (Off the record at 12:06 p.m.)

5 (On the record at 12:21 p.m.)

6 PRESIDING MEMBER DOUGLAS: This is Karen  
7 Douglas. I'm the Presiding Member on the  
8 Committee that was assigned to this project. And  
9 my colleague, Commissioner Andrew McAllister, the  
10 Associate Member on the Committee is sitting to  
11 the left of the Hearing Adviser. On my  
12 immediately left, Raoul Renaud is our Hearing  
13 Adviser for this project. To my right are my  
14 Advisers, Jennifer Nelson and Le-Quyen Nguyen.  
15 To Commissioner McAllister's left is his Adviser,  
16 Pat Saxton. And Eileen Allen, the Technical  
17 Adviser of the Commissioners for Siting Matters.

18 We'd like to start now with -- by  
19 inviting the parties to introduce themselves,  
20 starting with the Applicant, Hydrogen Energy  
21 California, LLC.

22 MR. CROYLE: Yes. My name is Jim Croyle.  
23 I am the CEO of HECA. We're sort of like  
24 Bechtel. If you don't like Bechtel it's Bechtel,  
25 if you like them it's Bechtel. This used to be

1 known as HECA. We call it HECA.

2 But the -- our Counsel, Mike Carroll,  
3 should be participating by phone. Marisa Mascaro  
4 who is responsible for all permitting for -- for  
5 the company is also participating by phone.

6 PRESIDING MEMBER DOUGLAS: Thank you.

7 And should we un-mute Mike Carroll? Is  
8 he -- everyone on the phone is muted right now.  
9 Or should we --

10 HEARING OFFICE RENAUD: Yeah. Well, I  
11 think we can -- we can carry on.

12 PRESIDING MEMBER DOUGLAS: We'll carry on  
13 with introductions. And then we'll make sure  
14 your counsel is un-muted.

15 Staff please?

16 MR. BABULA: Jared Babula, Staff Counsel.

17 MR. HEISER: John Heiser, Project  
18 Manager.

19 PRESIDING MEMBER DOUGLAS: Great. Thank  
20 you.

21 Intervener Sierra Club?

22 MS. ISSOD: Hi. Andrea Issod for --

23 THE REPORTER: You're microphone please.

24 MS. ISSOD: Hi. Andrea Issod, Counsel  
25 for Sierra Club.

1           PRESIDING MEMBER DOUGLAS: Thank you.

2           Intervener HECA Neighbors?

3           MS. ROMANINI: Hello. Chris Romanini,  
4 HECA Neighbors.

5           PRESIDING MEMBER DOUGLAS: Intervener  
6 AIR, Association of Irrigated Residents?

7           MR. FRANTZ: Yeah. Tom Frantz from Kern  
8 County, President of the Association of Irrigated  
9 Residents.

10          PRESIDING MEMBER DOUGLAS: Thank you.

11          Intervener NRDC? NRDC is not in the  
12 room. In a minute we'll check and see if they  
13 are on the WebEx. So hang in there if you're on  
14 for NRDC.

15          Intervener Environmental Defense Fund?

16 All right, same thing for them. We'll check the  
17 WebEx in a minute.

18          Intervener California Unions for Reliable  
19 Energy or Kern County Farm Bureau?

20          All right, so in a minute, Raoul, if you  
21 can un-mute?

22          All right, so everybody is un-muted. So  
23 let me ask, first of all, the Counsel for the  
24 Applicant, if you could speak up?

25          MR. CARROLL: Yes. This is Mike Carroll

1 with Latham & Watkins, Counsel for the Applicant.

2 PRESIDING MEMBER DOUGLAS: All right. So  
3 we have found you there. We'll keep you un-  
4 muted. Thank you.

5 MR. CARROLL: Thank you.

6 PRESIDING MEMBER DOUGLAS: If you're on  
7 the phone or on the WebEx from NRDC will you  
8 please speak up? That didn't sound like NRDC.  
9 If you're on from NRDC, please speak up loudly  
10 and clearly.

11 All right, what about EDF, Environmental  
12 Defense Fund? Okay.

13 California Unions for Reliable Energy?

14 Kern County Farm Bureau?

15 All right, go ahead and keep us un-muted.

16 I'm going to ask now, are there any  
17 government agencies here or on the phone? If  
18 you're in the room and you're from a government  
19 agency, Department of Energy or -- could you  
20 please come up to the microphone and introduce  
21 yourself?

22 MS. NICHOLS: Sara Nichols with the  
23 California Air Resources Board.

24 PRESIDING MEMBER DOUGLAS: Thank you.

25 Anyone else in the room from a state,

1 federal or local government agency?

2 All right, or Native American tribe?

3 All right, what about on the WebEx?

4 Please just speak up if you're representing a  
5 state, local or federal government agency, or  
6 Native American tribe.

7 MR. TAYLOR: Todd Taylor, Kern County  
8 Planning.

9 PRESIDING MEMBER DOUGLAS: Thank you.  
10 Anyone else?

11 MS. COOMBS: Mary Jane Coombs, Air  
12 Resources Board.

13 PRESIDING MEMBER DOUGLAS: We're having a  
14 little trouble with the names, I think. I'm  
15 watching our Court Reporter shake his head.  
16 Could you repeat your name again?

17 MS. COOMBS: Mary Jane Coombs, Air  
18 Resources Board.

19 PRESIDING MEMBER DOUGLAS: Oh, great.  
20 And we've got your name. You filled out.  
21 Perfect. Thank you.

22 Anyone else?

23 MR. HABEL: Rob Habel from the Department  
24 of Conservation, Division of Oil, Gas and  
25 Geothermal Resources.

1           PRESIDING MEMBER DOUGLAS: Perfect.

2 Thank you.

3           Anyone else? Anyone from the U.S.

4 Department of Energy?

5           All right, so we have our Public Adviser  
6 in the room, Shawn Pittard.

7           Shawn, could you just stand up for a  
8 moment? All right.

9           So if anyone from the public has a  
10 question or would like any assistance or would  
11 like to make a public comment, you can fill out a  
12 blue card, he's holding one up. And we'll make  
13 sure that we hear your comment.

14           With that I am going to turn this over to  
15 our Hearing Adviser to continue.

16           HEARING OFFICER RENAUD: All right.

17 Thank you, Commissioner Douglas.

18           I'll just briefly review our agenda for  
19 today. We -- we basically have two items of  
20 business. First is a Committee Status Conference  
21 during which we will hear from the parties  
22 regarding the progress of the case and how it's  
23 going and where -- what kind of scheduling we  
24 might anticipate for the future.

25           The second item of business is a hearing

1 on a motion to terminate the application for  
2 certification which was brought by Sierra Club,  
3 AIR and HECA Neighbors.

4           We have today our, as you know, our WebEx  
5 system running. During that time members of the  
6 public can be listening in, as well as parties  
7 can be participating. Later on in the agenda we  
8 will open the -- open the floor for public  
9 comment. And so any members of the public who  
10 were here and wish to make a comment may do so.  
11 And we ask that you fill out a blue card, which  
12 you can get from the Public Adviser. Also, if  
13 you're on the phone, we will give you an  
14 opportunity to make public comment.

15           A couple of housekeeping things. First  
16 of all, this entire proceeding is being taken  
17 down stenographically by a Court Reporter over  
18 here. In order to -- and it will be transcribed  
19 into a transcript as a printed version of this.  
20 In order to get a clear record we need to ensure  
21 that you not speak together. So we need -- we  
22 need each person to speak one at a time, no  
23 interrupting, to get a clear record.

24           Similarly, we have Spanish translators  
25 listing to the proceeding and translating that on

1 a recording. So for their benefit, as well, it  
2 is much better if you can limit -- limit it so  
3 that people are speaking only one at a time.

4 All right, with that I think we'll turn  
5 to the status conference. The -- the Committee  
6 oversees these proceedings and is -- is  
7 interested in seeing that they get to the -- to  
8 the end somehow. The end typically is we hold  
9 evidentiary hearings and then the Committee  
10 considers the evidence and issues a proposed  
11 decision, which then may or may not be adopted by  
12 the full Commission.

13 The Preliminary Staff Assessment was  
14 issued back in 2013. And we -- we have heard of  
15 some concerns and issues that have arisen since  
16 then that have resulted in a delay of the ability  
17 to complete the Staff Assessment because of  
18 some -- some information that hasn't been  
19 provided yet.

20 And I think the first thing we'd like to  
21 do is hear from each of the parties regarding the  
22 status of the case, where you think it's going,  
23 and where or when you think we might be able to  
24 get to a point where the -- all of the  
25 information that is needed has been provided, and

1 we could go to hearings.

2 Let's begin with the Applicant, if we  
3 may.

4 MR. CROYLE: Okay.

5 HEARING OFFICER RENAUD: And, Mr.  
6 Carroll, I just want to make sure you are un-  
7 muted. Are you there?

8 All right. We're going to get him un-  
9 muted.

10 (Colloquy)

11 MR. CARROLL: Yes. This is Michael  
12 Carroll. It appears that I am not un-muted. I  
13 am here, but I am going to defer to Mr. Croyle  
14 who is there in the room to provide a status  
15 update on the project.

16 HEARING OFFICER RENAUD: Perfect.  
17 Thanks. But we'll leave you un-muted in case you  
18 need to say anything.

19 MR. CARROLL: Thank you.

20 HEARING OFFICER RENAUD: So, Mr. Croyle,  
21 please.

22 MR. CROYLE: As I think is common  
23 knowledge by now, the -- the -- subsequent to the  
24 Preliminary Staff Assessment that was issued  
25 toward the end of 2013 the -- the work at the

1 Commission had focused on information, data that  
2 were required from Occidental Petroleum in the  
3 Elk Hills to -- to continue those -- that work.

4           Unfortunately for -- for everyone the --  
5 the senior management, executive management of  
6 Occidental Petroleum decided to spin off various  
7 companies and assets for the benefit -- financial  
8 benefit of their shareholders. And one set of  
9 assets that were -- were targeted to be spun off  
10 in 2014 was the -- the California -- the  
11 California assets that Occi held, primarily in  
12 the Elk Hills, and primarily the -- the place in  
13 which this project was going to deliver its Co2  
14 for enhanced oil recovery.

15           That -- that spinoff required a  
16 significant amount of work inside of Occi, and  
17 everything from -- from determining the nature of  
18 that spinoff and -- and the relationship of  
19 the -- the ownership and any financial  
20 implications to the various shareholders,  
21 selecting a set of managers to run the new  
22 company in California, and selecting a board of  
23 directors for managing that company. And then,  
24 of course, putting together the financial  
25 structure for the company that would implement

1 the terms of the deal with the Occi shareholders  
2 for the spinoff, not -- not a small task.

3           We were -- we were asked to bide our  
4 time, that they just did not have the ability,  
5 the capability, the staff requirements, even, to  
6 focus on continuing the negotiations with HECA  
7 because they involved a lot of technical work, a  
8 lot of manpower work in selecting precisely where  
9 the -- the injections of the Co2 would take  
10 place, all the things related to that, and their  
11 plate was full with respect to restructuring the  
12 company.

13           We were -- I think we submitted a  
14 timeline of all the activities, a month-by-month  
15 sort of summary in our response to the Sierra  
16 Club petition. So I won't bore everybody with  
17 going through that stuff. But I -- but I will  
18 say that as the year progressed in 2014 we kept  
19 being assured that -- at first it was sort of  
20 early fourth quarter of 2014. Then it became  
21 sort of the end of the fourth quarter 2014 that  
22 we would, in fact, get back to the table and --  
23 and negotiate the terms of the agreement.

24           There were -- the broad outlines of an  
25 agreement between the project and Occi had been

1 structured BP when they owned the project. We  
2 were asked -- in fact, we came into this project  
3 when BP decided it no longer wanted to  
4 participate, and this is 2010-2011 timeframe. We  
5 were actually encouraged to come out by the  
6 Department of Energy because of the particular  
7 commercial and technological structure of our  
8 project that we were developing in New Jersey.  
9 They thought we could resolve some of the  
10 problems that the project ran into which were  
11 primarily the revenue stream needed for the  
12 power. It was a power-only project and not as we  
13 are presently structured.

14           So we took over in September of 2011 and  
15 we agreed with Occi, we met with Occi, and  
16 their -- their insistence of continuing in the  
17 course that had been set was that we agreed to  
18 the broad terms that they had established with  
19 BP, which we did, terms, with respect to volumes  
20 and pricing. Our volumes were a little higher  
21 because we produce -- because of the multiple  
22 products we produce a little more Co2. So we  
23 were providing additional Co2 to them, you know,  
24 in addition to what BP was going to be able to  
25 give them.

1           The significant terms of the contract or  
2 the potential contract that were not worked out  
3 with Occi had to do primarily with liability  
4 issues. There's -- there are multiple billions  
5 of dollars going into this project. The capital  
6 is quite concerned that the project will, in  
7 fact, be able to continue to operate. And one of  
8 the -- one of the conditions of operating this  
9 facility, of course, is that the Co2 in the  
10 volumes that we have said would be sequestered  
11 through EOR or whatever.

12           So the -- we were in some significant  
13 discussions about who had liability for what, if  
14 there was an upset in the oil fields and they  
15 were unable to take our Co2 for some period of  
16 time and we may have been forced to shut down  
17 because of that.

18           So those are the kinds of issues that we  
19 continue to discuss throughout 2014 in sidebars,  
20 even though they were not doing anything that --  
21 that this Commission required them to do with  
22 respect to producing data so that the permitting  
23 can continue. That was all put on hold. And I  
24 was just in discussions with -- with individuals  
25 and not a team at Occi.

1           We probably stayed with Occi just a  
2 little bit longer than we should have.

3           By the way, the spinoff company is  
4 California Resources Corp, CRC.

5           We probably stayed with them longer than  
6 we should have before looking for alternative  
7 paths because they were such -- they were such a  
8 critical part of this project from the beginning.  
9 It was -- it was BP and Rio Tinto and Occi that  
10 started out in Southern California.

11           The -- it turned out that Occi could not  
12 recover -- they could not use the Co2 flooding in  
13 their fields in Southern California and suggested  
14 to move to Kern County. And the first site  
15 was -- it was on their property in the Elk Hills  
16 when endangered species was discovered, and they  
17 had to move from that site to the -- to the  
18 present one. So there's sort of -- you know, it  
19 was an Occi project. And it would make perfect  
20 sense for -- for the EOR in the Elk Hills at that  
21 time.

22           The -- you should know, and this is  
23 relevant to where we are, the status of the  
24 project now, the revenue stream from that  
25 relationship with Occi was never significant. I

1 think the revenue stream was probably -- it was  
2 subject to confidentiality agreements which  
3 probably persist, so I can't give a number. But  
4 I can't tell you the revenue stream from that --  
5 that contract was not significant different than  
6 our property tax. So in a \$5 billion project it  
7 wasn't the economics of the -- of the deal with  
8 Occi that was critical. It was the fact that  
9 they were -- they were taking the Co2 and it  
10 would be sequestered that would allow us then to  
11 have low-carbon products and allow this  
12 Commission to -- to permit us to build the  
13 project.

14           The -- throughout the last part of 2014  
15 and since the -- throughout the first quarter of  
16 2015 we have been working -- we have been  
17 working -- well, actually, earlier in 2014 we had  
18 been working pretty diligently at the overall  
19 economics of the project. The -- and I can  
20 report that we have been quite successful on a  
21 couple of fronts with respect to the way we're --  
22 we've structured the product lines and revenue  
23 streams from them and the structuring of the  
24 financing that allows a more efficient use of  
25 capital.

1           And we now believe that the -- the  
2 agreement we had with the utility -- and I don't  
3 know what I'm allowed to say about the utility,  
4 there's so many rules in California about whether  
5 I'm even allowed to tell you who I'm talking to,  
6 but I guess everyone knows. We're talking  
7 with -- with one of the major IOUs. And we had a  
8 term sheet. And as far as I know that -- that  
9 term sheet still exists. And the pricing in that  
10 term sheet was negotiated to allow for the  
11 financing of this important project, because it's  
12 a demonstration project. We know what it's  
13 intended to do. It's not there to compete with  
14 fracked gas or anything -- anything of that sort.  
15 It's there just to show the best economic and  
16 efficient way to get CCS underway. So the number  
17 was essentially, that we negotiated with the  
18 utilities, essentially a plug of what was  
19 required by the capital in order to get the  
20 financing done.

21           The stuff we've been able to accomplish  
22 over the last year with respect to those  
23 economics allow us to drop that price  
24 considerably. In fact, we're -- we're now able  
25 to offer a price well under what the utility's

1 target was when we first started negotiations  
2 that we almost met but not quite. And I think  
3 we're -- we're getting down into numbers that are  
4 pretty competitive with other low carbon choices  
5 of power, expecting to be competitive. So in a  
6 demonstration project, a technology demonstration  
7 project where -- where capital is higher because  
8 of the nature of that we're -- we're actually  
9 getting to a point where the financing can take  
10 place with pretty interesting power prices as  
11 well.

12           The -- the pricing also has another  
13 element. We divulged this to the Air Resources  
14 Board in a meeting several months ago. But this  
15 project will generate, because of the nature of  
16 it, it will generate fairly significant AB 32  
17 credits because of the low -- because -- not from  
18 the power side. The power side, that deal was  
19 negotiated with the IOUs and the PUC and maybe  
20 you guys, I don't know. But we don't -- this  
21 project doesn't have any benefit on the power  
22 side from low -- from its low carbon status. It  
23 just allowed to operate. But on the other -- on  
24 this other product lines we are significantly, on  
25 the industrial side, we are significantly lower

1 in Co2 emissions than what AB 32 allows, and so  
2 we will generate credits.

3           We disclosed to ARB that we have  
4 negotiated -- we negotiated with the utility that  
5 we would share those credits, the value of those  
6 credits, with ratepayers. And a formula was  
7 established where the ratepayers got most of  
8 the -- of the -- those early credits, in essence  
9 in reduced pricing. And the equity then would  
10 share in anything beyond that. So the -- when  
11 you take that into account, as well, we think our  
12 pricing is getting really substantially strong or  
13 good from the ratepayers point of view.

14           So we've been spending a lot of time  
15 doing those things, financial structuring,  
16 working with our product lines, slightly altering  
17 the -- the nature of the -- of the project to  
18 accommodate that. And working on the Co2 front  
19 to look for alternative approaches to Occi. And  
20 we've been talking, as we've disclosed, to a  
21 number of other producers, small producers. And  
22 also, since the revenue stream is not that  
23 critical we've been looking at simply going into  
24 geologic storage without EOR.

25           This also solves a problem that we've

1 been working on with respect to liability in that  
2 we're going to have an alternative sink  
3 (phonetic) if there's a problem with any of our  
4 EOR customers. So I think we're working that  
5 side now pretty diligently on the -- on the Co2  
6 and where it's going.

7 HEARING OFFICER RENAUD: Okay.

8 Sorry, that was more than you asked for.

9 HEARING OFFICER RENAUD: No, that's fine.

10 Thank you.

11 The one thing I'm not sure I heard in  
12 there was any discussion of when you think you  
13 might be in a position to provide the information  
14 Staff needs.

15 MR. CROYLE: Yeah. I think --

16 HEARING OFFICER RENAUD: Do you have any  
17 time estimates?

18 MR. CROYLE: I think we have submitted  
19 something a day or two ago that suggests that  
20 we -- we probably need -- we think within six  
21 months we can have the Co2 part of this thing  
22 nailed down sufficiently that we can come back  
23 into the Commission and -- and start providing  
24 the kinds of information you need to move the  
25 project along.

1 HEARING OFFICER RENAUD: And you think  
2 that that might involve a different site than  
3 the -- than the Elk Hills location?

4 MR. CROYLE: A different injection site,  
5 yes.

6 HEARING OFFICER RENAUD: Okay.

7 MR. CROYLE: And those -- those potential  
8 sites are what we're looking at now. And the  
9 reason we need the time before we come to you so  
10 that you -- it's not just a story, you know  
11 specifically what we want to do.

12 HEARING OFFICER RENAUD: All right.  
13 Well, okay, we appreciate that. We -- that's the  
14 kind of thing that could wind up needing to be an  
15 amendment to the AFC, but we'll -- we'll face  
16 that when we come to it.

17 MR. CROYLE: Sure. Of course.

18 HEARING OFFICER RENAUD: All right.

19 Shall we hear from Staff next please?

20 MR. HEISER: John Heiser, Project  
21 Manager.

22 Other than what's been disclosed in the  
23 docketed item for today discussing the project  
24 schedule it seems that it's on -- it identified  
25 all the issues that Mr. Croyle brought out, as

1 well as our understanding that we are still  
2 waiting for data requests from our last workshop  
3 in November of 2013.

4 HEARING OFFICER RENAUD: Okay. So the --  
5 so the information you're still awaiting  
6 basically is dependent on the CCS determinations;  
7 correct?

8 MR. HEISER: Correct.

9 HEARING OFFICER RENAUD: All right.

10 MR. HEISER: Yes. And there's been  
11 additional data requests, too --

12 HEARING OFFICER RENAUD: Uh-huh.

13 MR. HEISER: -- from other technical  
14 staff.

15 HEARING OFFICER RENAUD: And this may  
16 be -- I don't -- I don't want you to guess at  
17 this, but if you have an estimate, once you have  
18 that information how long would Staff need it and  
19 need to work on that before being able to -- to  
20 do the -- the FSA?

21 MR. HEISER: Well, if the applicant is  
22 talking about different sequestration sites --

23 HEARING OFFICER RENAUD: Uh-huh.

24 MR. HEISER: -- we're looking at  
25 additional Cultural Resources investigations,

1 Biological, so it's opening it up quite a bit.  
2 So I really can't give you a timeline until that  
3 information comes in.

4 HEARING OFFICER RENAUD: Thank you.  
5 That's -- that's a good point though. Thank you.

6 MR. HEISER: Uh-huh.

7 HEARING OFFICER RENAUD: I appreciate you  
8 raising that.

9 MR. BABULA: This is Jared Babula, Staff  
10 Counsel.

11 One other thing. I just wanted to make  
12 sure the Committee is aware that they did file a  
13 request for a six-month suspension, the applicant  
14 did. I think it came in yesterday. And so, I  
15 mean, at a minimum we're going to be looking at  
16 six months out. And at that time we would also  
17 have to consider some of the information in the  
18 PSA, whether -- besides project changes affecting  
19 that, also whether the data, it may be stale in  
20 some cases too. So that's just another  
21 consideration to be aware of.

22 HEARING OFFICER RENAUD: Okay. Thank  
23 you. I should mention the -- the request for  
24 suspension, that was filed yesterday. We  
25 didn't -- it's not on the agenda because we

1 didn't know about it. So it's not -- it can't  
2 really be a topic of -- of a great deal of debate  
3 here. We -- we are going to listen to anything  
4 that anybody wants to say about it today. But  
5 under the regulation governing motions, and that  
6 is a motion, we need to allow some time for  
7 parties to submit anything in writing that they  
8 want to, and for members of the public to submit  
9 comments, as well, before the Committee could  
10 make a decision about that.

11           MR. BABULA: Just one thing on that. The  
12 Warren-Alquist Act, though, does allow for, just  
13 through mutual agreement, an extension of time.  
14 And so there isn't really any metrics  
15 incorporated that needs to be shown on that. And  
16 so it may be plausible to just, as part of the  
17 overall discussion here when we set forth a  
18 schedule, just consider that as part of the  
19 procedural process.

20           HEARING OFFICER RENAUD: All right.  
21 Thank you. Okay.

22           Let's hear from any interveners who want  
23 to provide us with a status update. Let me start  
24 with Sierra Club.

25           MS. ISSOD: Hi. This is Andrea Issod. I

1 guess I have a hard time figuring out where to  
2 start. I'm going to save argument on our motion  
3 for that hearing.

4           But we've heard -- we've just heard a lot  
5 of new information from the applicant. We saw an  
6 email in the docket about a week ago. And I  
7 mean, I could talk a bit about the questions that  
8 we have about them. I don't know if it's  
9 appropriate for us to ask questions to the  
10 applicant directly, if you would allow that. I  
11 could just phrase the questions.

12           HEARING OFFICER RENAUD: Yeah. The  
13 status -- the status conference is generally for  
14 the Committee to receive information about how  
15 the case is doing and the status and so on from  
16 the parties. But it's -- it can be a fairly  
17 free-flowing thing. Let me just check with the  
18 Presiding Member momentarily.

19           (Colloquy Between Hearing Office Renaud and  
20 Presiding Member Douglas)

21           HEARING OFFICER RENAUD: Okay. So right  
22 now we're going to kind of go through a first  
23 round with everybody just to -- to get  
24 basically -- state you're here and give us any  
25 information about your views on status. And then

1 I think we can have a little more of a discussion  
2 where people can -- could at least state what  
3 their questions or concerns are, and we'll take  
4 it from there. So --

5 MS. ISSOD: Just -- so just a brief  
6 summary. And then I'll have -- I'll have a  
7 chance to ask maybe some more specific questions,  
8 it sounds like, is that --

9 HEARING OFFICER RENAUD: Yes, that's  
10 right. Yeah.

11 MS. ISSOD: Thank you.

12 So I think from our perspective our  
13 status's update is well laid out in our motion to  
14 terminate. We think this project has, you know,  
15 been going on -- it's been proposed for seven  
16 years. Staff has been working on this for seven  
17 years. And the project -- the proposal still has  
18 yet to tie up really fundamental aspects, and not  
19 just the Co2 but water issues. Now we're hearing  
20 about entirely, you know, new injection sites  
21 which raises so many new questions. I'm going to  
22 have a number of questions about these new  
23 chemical product lines and products in the  
24 transportation sector.

25 And you know, I mean, the process for

1 this going forward, it just seems to us we're  
2 talking about an entirely new project now. So  
3 I'll leave the questions and -- and argument,  
4 sort of --

5 HEARING OFFICER RENAUD: For later.

6 MS. ISSOD: -- make a summary of the  
7 status.

8 HEARING OFFICER RENAUD: Good. Thank you  
9 very much.

10 And let's now ask HECA Neighbors if you  
11 have anything to add to the status discussion?

12 MS. ROMANINI: I also have many questions  
13 about the product lines that Mr. Croyle is  
14 referring to, and what is this approach to  
15 sequestering? But this transportation sector,  
16 I'm wanting more information about what these  
17 products are that he is proposing, these new  
18 chemical -- chemicals that he has in mind.

19 And also I'm wondering when we will get  
20 some information about the water. I mean, we  
21 farm in this area. We have fields that we are  
22 leaving fallow. And they've been asked a year-  
23 and-a-half ago to look at dry cooling and other  
24 ways of preserving what we need to operate in.  
25 When are we going to get this information?

1 Beau Anton Giovanni put in -- a salinity  
2 field trials paperwork was docketed over a year  
3 ago. It was -- it was -- it was very scientific  
4 and it showed how usable this water is. And  
5 we're just spinning our wheels talking about  
6 using that water still on this project, 7,500  
7 acre feet a year.

8 Anyway, I would like to see more answers  
9 coming forward. It isn't just the Co2 that we  
10 have questions about. We're wanting to know what  
11 is happening to this -- the water in your ice and  
12 what are they thinking that they're doing with  
13 our -- with the water. It's usable water.

14 HEARING OFFICER RENAUD: Okay.

15 MS. ROMANINI: Thank you.

16 HEARING OFFICER RENAUD: Thank you.

17 Okay.

18 Tom Frantz with AIR.

19 MR. FRANTZ: Hello. I will tell you that  
20 with the drought the last couple of years, like  
21 on my farm ten miles south of the project the  
22 water table has dropped 40 to 50 feet the last  
23 two years. According to farmers I've spoken with  
24 in the Buena Vista Water District their water  
25 hasn't dropped as much, but at least 20 to 40

1 feet, a little bit less in that area. But their  
2 water table is dropping significantly. So the  
3 comment about, you know, taking more water out is  
4 very pertinent to all of us in Kern County.

5           The -- as Ms. Issod was saying, there are  
6 other issues besides what the Co2 -- where the  
7 Co2 is going to end up. Mr. Croyle said that was  
8 the main thing the CEC wanted. But in the PSA it  
9 questions about the waste, the water, even how  
10 you calculate the final Co2 emissions from the  
11 project, and how much energy do you actually  
12 attribute to the project. These were big  
13 questions that were unresolved. There were  
14 questions about traffic that were still  
15 unresolved, all the truck traffic. And even the  
16 land use and how do you mitigate for the loss of  
17 farmland? That's never been resolved. And  
18 the -- there's even zoning questions, especially  
19 if the project changes now, big zoning questions  
20 for the area.

21           The environmental justice issues, both in  
22 Tupman and in Wasco, have not been addressed by  
23 Staff yet. They're lacking information or time  
24 to do the studies, I don't know.

25           And then we have all these scandals that

1 have happened in the least year since there's  
2 been no real activity that have come to light,  
3 like the PUC, scandal and emails that said, okay,  
4 we helped you keep HECA alive, now you've got to  
5 do something for us, from PG&E to Mr. Brian  
6 Cherry. You know, this is all public information  
7 now that needs to be considered in this project.  
8 Is the PUC going to make a contract now with this  
9 entity after all of that scandal? Probably,  
10 because we know this type of process is not all  
11 above ground. This is a very strange process to  
12 go on for seven years now.

13           Mr. Croyle said Occi couldn't inject Co2  
14 in Long Beach, but they were laughed out of Long  
15 Beach. That's why they moved up to the Elk  
16 Hills.

17           And Mr. Croyle says that injection of the  
18 Co2 -- saline Co2 wasn't an economic issue. But  
19 it's a huge economic issue when you have to do it  
20 yourself. It's very expensive to get all of that  
21 Co2 injected. So I have questions about the  
22 economic feasibility of the project doing that  
23 themselves and guaranteeing that it will all stay  
24 down there and doing it safely.

25           And I'm very upset that the DOE doesn't

1 seem to be at this meeting. Is the DOE still  
2 spending money on this project or have they  
3 pulled out? And the fact that this was -- a lot  
4 of this 100 million or so was stimulus funding,  
5 yet nothing has happened all these years. They  
6 cheated the taxpayer greatly. And if the project  
7 goes away, which it should, what happens to  
8 things like the emission reduction credits that  
9 have been purchased by Mr. Croyle with taxpayer  
10 money? Does he now get to sell them and keep the  
11 money and we get the pollution?

12           So for my status update I have all these  
13 questions going on in my mind that need to be  
14 addressed. And there's probably, I know, quite a  
15 bit more, but I'll stop.

16           HEARING OFFICER RENAUD: All right.  
17 Thank you. Okay.

18           Now the remaining interveners in the case  
19 are not present. But I'm going to ask Mr.  
20 Alexander to un-mute everybody so in case they've  
21 joined by phone we can -- we can find that --  
22 find that out. Okay.

23           So first of all, NRDC, are you present on  
24 the phone? No. Okay.

25           Environmental Defense Fund, EDF? Okay.

1 No.

2 CURE, California Unions for Reliable  
3 Energy? No.

4 Kern County Farm Bureau? All right.

5 And the U.S. Department of Energy, have  
6 you joined the -- the conference?

7 MS. SMITH: My name is Claire Smith and I  
8 am with the Department of Energy, Office of  
9 Social Energy (phonetic).

10 HEARING OFFICER RENAUD: All right.  
11 Thank you very much.

12 Okay, thank you, Rick. And could we  
13 leave Ms. Smith un-muted, as well as Mr. Carroll,  
14 Mike Carroll? Okay.

15 So I think we've -- we've given each  
16 intervener and each party, actually, a chance  
17 to -- to tell us their view of the status.

18 Sierra Club, Ms. Issod, as indicated, you  
19 have a number of questions. And I think it could  
20 be constructive for you to state what those are.  
21 I want to set this up that it's -- this is not  
22 cross examination of the applicant.

23 Mr. Croyle, you don't need to be on the  
24 defensive and feel you need to respond to  
25 everything. But I think it could be useful to

1 hear what Sierra Club's questions are. Any  
2 comment or response you wish to give us, we would  
3 certainly listen to. But don't feel obligated.

4 MR. CROYLE: There are a couple of points  
5 I can respond to now if you'd like to me to do  
6 that briefly because they're -- they're pertinent  
7 to what I think this Commission is quite  
8 concerned about with -- with us.

9 HEARING OFFICER RENAUD: Go ahead with  
10 that, and then we'll turn back to Ms. Issod.

11 The first is that there's been -- there's  
12 absolutely no change in the chemical plant  
13 structure of this project. But the EPA has -- so  
14 there would be no -- the only change that's going  
15 to occur is there may be a reduction of making  
16 urea pellets. So it will be -- it will be a  
17 reduction of whatever came out of that -- of that  
18 pelletizing process.

19 The EPA has required the -- the -- in  
20 diesel engines to do further NOx control with the  
21 use of something they call diesel exhaust fluid.  
22 That is simply a high purity urea that we  
23 manufacture. It's -- it's agricultural  
24 fertilizer that is then used. So when we say  
25 that we have an impact in the transportation

1 sector it's not that we're providing any  
2 different chemicals out of our project, but  
3 rather it's a way of using the fertilizer to  
4 accomplish the EPA mandate. And therefore it has  
5 an environmental benefit in the transportation  
6 sector because it comes from low-carbon footprint  
7 high purity urea.

8           With respect to injection, the -- the  
9 most likely injection source spot will actually  
10 be out site, so that the Culturals and the  
11 Historicals have been done.

12           The -- we -- one of the things we've been  
13 spending all of our time in is looking at all  
14 the -- all that geologic work that the -- the  
15 national labs have done. And it appears as if we  
16 are located perfectly for geologic storage  
17 without EOR as well. So -- but that's something  
18 that we're working on and we're not prepared to  
19 present here yet.

20           HEARING OFFICER RENAUD: Okay. Thank you  
21 for that.

22           So, Ms. Issod for Sierra Club, if you  
23 care to just state what your questions and  
24 concerns are, and we'll take it from there.

25           MS. ISSOD: All right. Thank you. And

1 thank you to Mr. Croyle for some of these  
2 clarifications. I'll try to organize our  
3 thoughts and questions by category.

4           So on the Co2, I mean, a few thoughts and  
5 questions. We noticed that in the alternatives  
6 analysis, in the staff's Preliminary  
7 Assessment/Draft Environmental Impact Statement  
8 there are basically no alternative sites  
9 proposed. So it's interesting that we now here  
10 there are so many other potential alternative  
11 sites.

12           And, I mean, as Mr. Croyle was -- was  
13 just remarking, Occi -- this was an Occi project.  
14 And Occi has been a critical part of it from the  
15 beginning. And the characterization of an  
16 underground formation is a very complex thing.  
17 Now maybe Berkeley Labs and some other places  
18 have been trying to characterize these  
19 formations, but the attractiveness, I think, of  
20 the Occi formation is that it was -- it was well  
21 studied and well known. So there's going to be a  
22 number of questions about -- not just a number of  
23 questions, but I think an entirely new process  
24 that needs to be started around any new  
25 formation, I mean, any, you know, including

1 permitting proceedings for these underground  
2 injection wells and to figure out how much -- how  
3 much do we know about these formations.

4           So --

5           MR. CROYLE: Could we -- could I address  
6 that then? The -- the characterization of the  
7 geology here is quite extensive. We have been  
8 quite impressed with it. The reason this was not  
9 considered previously was that we believed it  
10 would not be possible to do this kind of  
11 injection and get it financed because it requires  
12 Class VI Well Certification which had not  
13 occurred anywhere in the United States. In fact,  
14 the Secretary of Energy in a meeting I was within  
15 stated that he thought we could never accomplish  
16 that. And so we discouraged from moving --  
17 trying to move in that direction.

18           In fact, the EPA and FutureGen did get  
19 the Class VI Certification and did so with  
20 parameters and protocols and liability aspects  
21 that are financeable that the capital will  
22 accept. So that is a very new development that  
23 has made this available.

24           The characterization of the geology was  
25 actually done with funds, I think from the

1 California Energy Commission, from the Department  
2 of Energy as well. So this was not a maybe  
3 somebody did this, maybe somebody did that. This  
4 was a very considered effort by California and  
5 federal agencies to determine the geology of --  
6 of the San Joaquin Valley and its appropriateness  
7 for Co2 storage. So this is not a will of the  
8 wisp kind of thing.

9 MS. ISSOD: Okay.

10 HEARING OFFICER RENAUD: All right. Let  
11 me just sort of interject here that I'm concerned  
12 that we -- this is beginning to sound more like  
13 an evidentiary hearing than a status conference.

14 MR. CROYLE: Right.

15 HEARING OFFICER RENAUD: If you can keep  
16 your statement of your questions or concerns  
17 limited to concise, perhaps, issues rather than  
18 setting forth your -- your client's position we'd  
19 appreciate that. We'd like to --

20 MS. ISSOD: Okay.

21 HEARING OFFICER RENAUD: -- give the  
22 other parties a chance to speak, as well, and  
23 then move on to the motion. Thank you.

24 MS. ISSOD: Okay. I'll do my best. And  
25 I'm biting my tongue to not respond to that last

1 statement, but I will.

2 PRESIDING MEMBER DOUGLAS: But just  
3 remember, this is not an evidentiary hearing.  
4 Nothing that is said by any party is going to  
5 appear in a record of decision or be cited or  
6 anything like that. So this is not your  
7 opportunity to convince us of facts. This is an  
8 opportunity to share information about the status  
9 of the case, timing, and obviously we'd like to  
10 move into your motion sooner rather than later.

11 So if there are clarifications that  
12 you're interested in that might affect your  
13 thinking on timing or our understanding of  
14 timing, that would be helpful.

15 MS. ISSOD: Right. Okay. So I think the  
16 next bucket --

17 PRESIDING MEMBER DOUGLAS: And I'm sorry,  
18 I'll just interject one more time. After the  
19 parties have -- after we've gone around to the  
20 parties, we do have a couple of questions for the  
21 DOE representative which we will ask at that  
22 time. And then we'll go back around and see if  
23 any of you have additional questions you might  
24 want us to ask. But just so you know that we --  
25 we noted and we're pleased that DOE is

1 participating. And we will send a question or  
2 two their way.

3 MS. ISSOD: Okay. Thank you. I think I  
4 can probably put maybe even all the rest of the  
5 questions into one bucket of the economics.

6 So Mr. Croyle was just talking about how  
7 now they're -- they're -- they've re-jiggered  
8 their revenue streams and they can now offer a  
9 better price. So it seems like -- I mean,  
10 obviously, they're making a lot of assumptions  
11 about where this injection site is going to be  
12 and how much it's going to cost and the  
13 liabilities and all of that. And -- but we have  
14 this -- this email that raises a lot of questions  
15 about, I mean, where are we with the DOE funding?  
16 And we heard from the applicant in the -- over  
17 the last few years a number of times of how  
18 critical the DOE funding was and the timing for  
19 that funding. So now in this email we heard that  
20 DOE funding is over.

21 We hear about new chemical product  
22 line -- or maybe not new, but chemical product  
23 lines and products in the transportation sector.

24 So I think clarification of all of those  
25 areas would be the next bucket of questions.

1                   HEARING OFFICER RENAUD: Great. Thank  
2 you. And I think any -- if we -- you know,  
3 once -- if -- if the -- what Mr. Croyle is  
4 telling us comes to pass and they end up  
5 submitting new filings which would indicate a  
6 different site and so on, you know, we'll -- we  
7 would proceed in the -- in the fashion in which  
8 the EC does that which is to examine these things  
9 thoroughly, give everybody a party to -- a chance  
10 to examine it and fully vet it. But nothing has  
11 happened yet, but we appreciate your -- your  
12 telling us about those concerns, and thank you.

13                   Any other party wish to provide any  
14 further issues for the status conference?

15                   Yes, Mr. Frantz?

16                   MR. FRANTZ: Yeah. We heard some new  
17 information today, as well, about AB 32 credits,  
18 carbon credits from the manufacturer of a  
19 product. I'm assuming the fertilizer or -- I  
20 don't -- I don't even know what they're talking  
21 about. But we need a lot of information about  
22 that and how that's calculated. Because CEC  
23 staff did bring up at one point a year or so ago,  
24 there's a lot of Co2 emissions attributed to  
25 using nitrogen fertilizers. And the manufacturer

1 of that fertilizer, just like the manufacturer of  
2 transportation fuels or the manufacturer of  
3 electricity, when it's at such a large quantity  
4 it needs to fall under Cap-and-Trade Rules and  
5 that kind of thing, I would think.

6           And it's a fact that if you produce  
7 500,000 tons of urea fertilizer, nitrogen  
8 fertilizer, when that fertilizer is applied to  
9 fields across the U.S. and across the world,  
10 perhaps, there's going to be about 6 million tons  
11 equivalent Co2 in the form of N2O emissions  
12 attributed to that fertilizer. And we're under  
13 the gun to use a lot less fertilizer these days  
14 and, of course, the lower Co2 emissions and find  
15 other ways to grow crops. So this is -- this is  
16 evolving information that really hasn't been  
17 studied much about this fertilizer production.

18           And then Kern County really needs to get  
19 involved. I'm very curious if they would approve  
20 any fertilizer to suddenly be used as a NOx  
21 control in diesel engines, you know, because now  
22 you're -- now you're getting into the zoning.  
23 That property is in no way zoned for any product  
24 to be used in that way, to be manufactured there.

25           Okay.

1 HEARING OFFICER RENAUD: Thank you, Mr.  
2 Frantz.

3 And any other party wish to add further  
4 to status conference? No?

5 MS. ROMANINI: I would like to ask, how  
6 many product lines is he selling? I thought it  
7 was just fertilizer. I'd like to you know, what  
8 are the products that he is selling?

9 PRESIDING MEMBER DOUGLAS: Are there  
10 additional product lines besides fertilizer and  
11 electricity?

12 MR. CROYLE: No. It's the -- the end use  
13 of the urea is what's in question. And we, of  
14 course, will talk to the county about whether  
15 they have objection to the fertilizer being used  
16 in such an environmentally beneficial way.

17 I had one comment, because the  
18 jiggering -- to get rid of the jiggering notion  
19 about our economics. The only thing that's in  
20 the category of jiggering is that the -- the  
21 investment bankers told us that in our fertilizer  
22 offtake agreements we would have to have a floor  
23 price because the capital would not take market  
24 risk. That has changed.

25 We're now told by our investment banks

1 that the -- the capital is comfortable with long-  
2 term conservative market forecasts for those  
3 fertilizer products. And therefore, to get the  
4 financing done we won't have to put that low  
5 floor price in. We can use a more conservative  
6 revenue -- I mean, we can use a conservative but  
7 higher revenue stream forecast in the financial  
8 proforma which allows us, as I said, since the --  
9 the PPA price was kind of a flood, allows us to  
10 reduce that price because we don't need as much  
11 revenue from that side.

12           So that -- that's a bit of financial  
13 jiggering. But -- but I don't -- there's nothing  
14 else.

15           HEARING OFFICER RENAUD: All right.  
16 Good. Thank you.

17           Now, Claire Smith, you're still there?

18           MS. SMITH: Yes, I'm here.

19           HEARING OFFICER RENAUD: Okay. Good. I  
20 believe Commissioner Douglas has a question for  
21 you. And thank you again for joining us.

22           PRESIDING MEMBER DOUGLAS: Yeah.

23           MS. SMITH: Sure.

24           PRESIDING MEMBER DOUGLAS: Good  
25 afternoon. I just had a couple of questions,

1 mainly pertaining to the status of the DOE  
2 funding for this project and whether there are  
3 any -- or what the deadlines and what milestones,  
4 if any, are in place for the project?

5 MS. SMITH: I'm happy to take all your  
6 questions to my leadership here. I'm not  
7 prepared to answer these questions directly at  
8 this time.

9 PRESIDING MEMBER DOUGLAS: Okay. So at  
10 this time you're not able to speak to  
11 deadlines --

12 MS. SMITH: Yeah. I would --

13 PRESIDING MEMBER DOUGLAS: -- or  
14 milestones?

15 MS. SMITH: Just that this time. I'm --  
16 I'm here to listen and take note. And I'm happy  
17 to respond with answers --

18 PRESIDING MEMBER DOUGLAS: Okay. Are  
19 there any --

20 MS. SMITH: -- after I check with  
21 leadership.

22 PRESIDING MEMBER DOUGLAS: Sorry, I don't  
23 want to speak over you, especially with our  
24 translation going.

25 Are there any status updates that you are

1 authorized to provide?

2 MS. SMITH: None, other than, I think,  
3 likely are already public knowledge, right, with  
4 the Recovery Act funding and all that? I believe  
5 everything -- I can't provide anything now.

6 PRESIDING MEMBER DOUGLAS: All right.  
7 Thank you.

8 MS. SMITH: Sure.

9 HEARING OFFICER RENAUD: Yeah.

10 MR. CROYLE: I'm happy --

11 HEARING OFFICER RENAUD: Okay.

12 MR. CROYLE: I'm happy to respond to  
13 that, on just an informational basis.

14 We had a deadline for expending ARRA  
15 funds by September, I think it was, of 2015.  
16 That -- that is not going to happen. There is  
17 probably little. About \$110 million of grant  
18 money that came -- left that came from that  
19 source that will not come into the project.  
20 The -- the other monies, maybe another \$140  
21 million of CCPI money sits there without --  
22 without any particular timeframe, except the  
23 project has to be in -- has completed  
24 construction, if forget, it's like by 2020 or  
25 2021, something of that sort. So we're -- we do

1 need to get construction going to preserve the  
2 CCPI monies.

3           The -- the way the grant is structured is  
4 it was -- it was structured into phases and  
5 budgets for each phase. Phase 1 is the  
6 development phase. And we budgeted about \$100  
7 million for the development phase. We have spent  
8 that money, and so there is no further grant  
9 monies available to us in Phase 1, and we're  
10 still in Phase 1.

11           We have requested that the department  
12 transfer, I forget the number, 20 or 50 -- \$15  
13 million or \$20 million of Phase 2 money into  
14 Phase 1 that we could use to complete this  
15 project. That -- that request of the DOE has not  
16 been acted upon. It has been either -- it's been  
17 neither allowed or denied. It just sits there.  
18 And the practical -- the practical world is we do  
19 not have access to any of the grant money to  
20 complete Phase 1 at this point in time.

21           We had been told at various times by the  
22 leadership in Washington that they would not act  
23 favorably upon our request until we had something  
24 substantial out of Occi. We have not been back  
25 to the department with any alternative to that to

1 see whether they would be willing to entertain  
2 transferring any of that money.

3           The economics of the project are such now  
4 that once we get through the development phase we  
5 can give back any other grant monies that are  
6 unused. We don't need them for the permanent  
7 financing.

8           HEARING OFFICER RENAUD: All right.  
9 Thank you for that.

10           I think we've done all we can in the  
11 status conference portion of this.

12           And we'll move into the next agenda item,  
13 excuse me, which is the motion brought by Sierra  
14 Club HECA Neighbors and Association of Irrigated  
15 Residents to terminate the application for  
16 certification based on failure -- alleged failure  
17 of the applicant to pursue the application with  
18 due diligence.

19           This -- this motion is brought pursuant  
20 to section 1720.2 of our regulations. And as I  
21 just stated, the -- it is limited to whether or  
22 not the application has been pursued with  
23 diligence. A motion of this type is not intended  
24 to be a referendum on one's opinion of the  
25 project, whether it's a good project, a bad

1 project, etcetera, etcetera. It simply: Has the  
2 applicant acted in a diligent manner with respect  
3 to that? And that is the -- the sole basis upon  
4 which the Committee can base its decision.

5           So with that in mind I would like to  
6 remind the parties, we have your briefs. We have  
7 read them. If there's anything you would like to  
8 say here that would enhance, add to or emphasize  
9 what's in your briefs, we'd like to hear it.

10           And as the moving party, Sierra Club, Ms.  
11 Issod, you may go ahead.

12           MS. ISSOD: Thank you. And I'll try to  
13 stay brief because, I mean, our -- our motion  
14 is -- is quite complete with references for the  
15 basis, why we believe that the applicant has not  
16 pursued this proposal with due diligence. And  
17 I'll just try to highlight and summarize those  
18 reasons.

19           For seven years this Commission and other  
20 agencies have spent a significant amount of item  
21 and resources reviewing this project. And for  
22 seven years the developers have been unable to  
23 tie up the loose ends and nail down fundamental  
24 aspects of this extremely controversial and  
25 complex demonstration project. Seven years alone

1 demonstrates a lack of due diligence on its face.

2           This proposal has real impacts on the  
3 surrounding community. For seven years the local  
4 community has spent their time and effort  
5 attending these public hearings to voice their  
6 opinion and add much needed facts and questions  
7 to the record, in some cases in the middle of  
8 their harvest season.

9           There's a few members of the surrounding  
10 community that have come here today who, I'm  
11 sure, will voice some of their comments in the  
12 public comment portion of this hearing. And  
13 these are the people who, you know, just having  
14 this proposal out there affects their lives, it  
15 affects the economics of their property, of  
16 trying to sell their property. It effects  
17 decisions about how -- decisions they're making  
18 on their farm. It affects decisions about, you  
19 know, future generations on these farms.

20           So really when the Commission is making a  
21 decision about, you know, whether this proposal  
22 has been diligently pursued, I urge you to  
23 consider those impacts on the community.

24           There are multiple significant unresolved  
25 issues, according to staff in the -- in the

1 Preliminary Staff Assessment. I'm not going to  
2 argue about those issues but point out that we  
3 believe the applicant's failure to respond to  
4 those issues for over a year-and-a-half  
5 demonstrates a lack of due diligence.

6           As I mentioned, this was an Occi project.  
7 Now here we are without any plan for a Co2  
8 injection site, which is a critical aspect of the  
9 project. That -- that could -- that could  
10 definitely be called due diligence. It could be  
11 called a new proposal. But now we're talking  
12 about due diligence. So I'm going to say that's  
13 due diligence.

14           Just a few more points.

15           On the water, as we point out in our  
16 motion, the applicant hasn't responded to  
17 critical unresolved questions about water.  
18 That's a lack of due diligence. I mean, we can  
19 give them an unlimited infinite amount of time to  
20 respond. But that would -- I believe this  
21 provision is therefore to cut off, to terminate  
22 the state's expenditure or resources on projects  
23 when it's really looking like this project isn't  
24 being pursued.

25           I mean and I think just to conclude, we

1 would like an opportunity to respond. It  
2 probably would have made sense to have a hearing  
3 at the same time on a request for a suspension,  
4 because I'm sure the Commission is -- I mean,  
5 it's out there now as a consideration, as an  
6 alternative to termination. But we do believe  
7 that termination is the appropriate remedy in  
8 this context. If this project can ever pull all  
9 the pieces together they can come back and put  
10 together a new application and put forward the  
11 appropriate filing fee and start over.

12 But really, seven years is long enough  
13 already with so many fundamental pieces up in the  
14 air. There's so many significant unresolved  
15 questions. And having the proposal hanging  
16 around has very real consequences. And we would  
17 urge the Committee not to suspend the project,  
18 and we'll have more to say about that.

19 HEARING OFFICER RENAUD: All right.  
20 Thank you.

21 Would the applicant care to respond to  
22 the motion?

23 MR. CROYLE: Sure. Let me try to stay  
24 focused.

25 HEARING OFFICER RENAUD: Okay. Yeah. It

1 was a joint motion.

2 Ms. Issod, are you speaking on behalf of  
3 the three moving parties or --

4 MR. FRANTZ: A little more.

5 HEARING OFFICER RENAUD: Do you want to  
6 add, Mr. Frantz? Okay. Go ahead.

7 MR. FRANTZ: Yeah. I want to add a few  
8 what I think are facts in what has happened that  
9 may differ from what the applicant says.

10 But you know, they had a public  
11 information office in Buttonwillow where the  
12 public could go and get information about the  
13 project. There was a phone number on the web  
14 page where the public could call and get  
15 information about the project.

16 So in April, at the end of April of 2014,  
17 the office as closed and the phone number was  
18 disconnected. From that time on you can -- you  
19 can even go today to their web page, I believe,  
20 and try and call that number, you get nothing.  
21 So the public was put in the dark last April  
22 about the project. As far as the public was  
23 concerned in Kern County the project had  
24 disappeared.

25 Some spokesperson was called. Somebody

1 at that project even told a reporter once that,  
2 "Oh, we moved the office to Shafter." That's  
3 like a joke where I live. Like I was the office  
4 now for HECA. Now you know, it's like -- like I  
5 said, the public figured the project is over.

6           Now concerning the new California  
7 Resources Corporation and Mr. Todd Stevens who  
8 was appointed, I'm not sure exactly what -- he  
9 took over in July last summer, we believe, maybe  
10 a little bit sooner. We were so curious, you  
11 know, with the office gone and everything quiet.  
12 So we to Mr. Stevens and he met with us in early  
13 October. And he said very clearly, "We are not  
14 even discussing this project with anyone. I  
15 won't even answer the phone when they call." And  
16 he was referring to the project and the DOE,  
17 everybody. He was not interested in the project.

18           Yet according to Mr. Croyle's notes they  
19 were meeting seriously through that period,  
20 before and after Mr. Stevens met with us. His  
21 mind wasn't made up the day he met with us. This  
22 was -- I think they made it very clear much  
23 earlier than what we're being told today that  
24 they were done with this project. You know,  
25 there was nothing that interested them according

1 to any terms they had ever been presented with,  
2 so there was no need to discuss it any further.

3           So it's been quite a while since then,  
4 too, yet we're -- we're being told maybe that  
5 that conflict came to light a little bit later  
6 than -- that what we were told. We were told the  
7 project, that wasn't going to go through. And  
8 there was no other word anywhere. So you know,  
9 we're getting ready to even celebrate a little  
10 and get on with our lives a little bit. And now  
11 out of the blue the project is being resurrected.

12           But I don't think we were told the  
13 truth -- that we've being told the truth. Either  
14 Mr. Stevens or Mr. Croyle is not telling the  
15 truth about what was going on in these  
16 negotiations. And all we can do is take their  
17 word for what happened. There's no evidence of  
18 any of these meetings that I'm aware of. Thank  
19 you.

20           HEARING OFFICER RENAUD: All right.  
21 Thank you.

22           And, Ms. Romanini, did you want to add to  
23 the motion?

24           MS. ROMANINI: The motion, I just wanted  
25 to add to this -- this status letter, this

1 response letter, also, because it was such a  
2 shocking to me the -- the way Mr. Croyle  
3 envisioned what happened last summer and last  
4 fall between CRC and -- and himself and what Todd  
5 Stevens told us. And I don't know why Todd  
6 Stevens -- what would be in it for him to tell us  
7 anything differently. He said that he was not in  
8 negotiations. And I called him even in December  
9 because they ran -- they ran a special news thing  
10 on our TV, they did an investigative on him, and  
11 I called to say, "I want to know where you are on  
12 it?"

13           And he says, "Nowhere. What we said was  
14 nothing has gone on."

15           And even when we met with him in August  
16 he said he had not been -- he had had not  
17 conversations with the DOE. And according to Mr.  
18 Croyle, he said that he had met with -- that it  
19 had happened that Todd Stevens met with the DOE  
20 in August. Well, I don't know why Mr. Stevens  
21 would want to fabricate and say, "No." He says  
22 that he did not want to take any calls. He was  
23 only -- he got a few calls from lower management,  
24 but never any -- and he says, "I didn't take  
25 them." He said it's -- it's an issue of -- well,

1 they weren't going to take -- he said he wasn't  
2 taking -- it's liability. The liability was  
3 something they could never get past.

4           And anyway, I'm just saying you can't --  
5 I can't believe this because it's a different  
6 story from what we were told. And we locally  
7 would like to get on with our lives. This was a  
8 big day, coming up here. And what I gave up to  
9 come today, you won't understand. But a lot of  
10 people in this room have been affected.

11           And my family, we farm right next to it.  
12 And for seven years this has hung over our head.  
13 And we thought, yeah, we were ready to celebrate  
14 that it was gone. And now we need a timeframe.  
15 When can we say, yeah, we can make some family  
16 decisions that this nightmare is over? When can  
17 we put it to bed? Either it's coming and we make  
18 our decisions one way or it's not coming.

19           Thank you, and let us move on. But it's  
20 just gone on and on, and it's disrupted so many  
21 lives locally. And I just ask you to consider  
22 what it's doing -- what it's doing to us.

23           HEARING OFFICER RENAUD: Okay. Thank  
24 you --

25           MS. ROMANINI: Thank you.

1 HEARING OFFICER RENAUD: -- Moving  
2 Parties.  
3 Before we turn to Applicant to respond if  
4 you wish, let me just check in with Staff  
5 quickly.

6 Did you -- do you have any -- anything  
7 you wish to say about the motion? I don't  
8 believe I got anything from you in writing.

9 MR. BABULA: Right. We didn't file  
10 anything. We sort of -- sort of sit back and let  
11 the parties sort of debate it.

12 Although I would offer -- and I do  
13 understand the concerns that the interveners have  
14 brought up in not knowing how this is going. And  
15 so one alternative, if it ends up going this way,  
16 would be to do some sort of clear suspension with  
17 clear deadline and milestone of when things need  
18 to start up and to assure that, of course,  
19 nothing is going to happen without the  
20 interveners being engaged fully. And to also  
21 know that no one should be doing any work on this  
22 while this time period is happening.

23 But we do need some clear ending at some  
24 point. And so at least if there is a schedule  
25 that everybody is going to hold to, that might be

1 a way to move forward and then -- but still give  
2 the assurances that they see there is a light at  
3 the end of the tunnel and that there is some  
4 ending point.

5           So that's all I have to add.

6           HEARING OFFICER RENAUD: Great. Thank  
7 you, Jared.

8           All right, would Applicant care to  
9 respond to the motion to terminate?

10          MR. CROYLE: Yeah. Why don't I just  
11 make, again, a focused statement.

12          While there has been a roughly 18-month  
13 hiatus in the CEC proceedings we have nonetheless  
14 been diligently pursuing the AFC by pursuing a  
15 Co2 offtake agreement.

16          Up until November of last year we  
17 continued to believe that an agreement would be  
18 reached with Occi, now CRC. Due primarily to a  
19 major internal restructuring of Occi/CRC, that  
20 has not been -- that has not been possible.

21          Since late last year we've been exploring  
22 arrangements with alternative Co2 offtakers,  
23 including, as I mentioned, working with  
24 geological storage that -- that has been  
25 characterized for the San Joaquin Valley.

1           As detailed in the month-by-month summary  
2 of activities set forth in our response to the  
3 motion to terminate our efforts to obtain an  
4 offtake agreement have been significant and  
5 sustained and reflected diligent effort on our  
6 part to advance review of the AFC. Our  
7 discussions with potential offtakers are ongoing.  
8 And while an agreement does not appear imminent,  
9 we remain optimistic about the long-term  
10 prospects for the project.

11           All the -- all the parties have put a  
12 tremendous amount of effort into review of the  
13 AFC and it does not make sense to scuttle that  
14 effort by terminating the proceedings at this  
15 point. In the alternative we have requested a  
16 six-month suspension of the AFC proceeding and  
17 are prepared to -- to honor significant milestone  
18 requirements.

19           HEARING OFFICER RENAUD: All right.  
20 Thank you.

21           Well, you've -- you've heard the moving  
22 parties, I think, call into question some of the  
23 statements in the response in which you've listed  
24 a few pages of activities that have taken place  
25 from November 2013 to February to March 2015.

1           And I guess the question in my mind is  
2 can -- is there any kind of documentation or  
3 proof for these -- the activities? Since the  
4 parties have called them into question is  
5 there -- are there -- how did this -- where did  
6 you get that from? Was it records, calendars?

7           MR. CROYLE: Emails. Our own -- our own  
8 internal records.

9           But let me -- let me -- let me make the  
10 point that what has been said here is not  
11 inconsistent with what we have submitted. And I  
12 can guarantee you that what we have submitted is  
13 factual. The -- the -- we've indicated to you  
14 that it wasn't until November that we had sort of  
15 begun to really give up on these guys. That's  
16 not inconsistent with their having heard in  
17 October that the CEO was not taking calls.

18           That's not inconsistent with the fact  
19 that he -- that Todd met with Julio Friedman in  
20 August. I was told specifically that that  
21 meeting occurred. I was told explicitly by Dr.  
22 Friedman that -- that Todd Stevens said he -- he  
23 did have an interest in this project. And he  
24 even talked a little bit about how he wanted the  
25 price lowered.

1           So none of these things are inconsistent  
2 with one another at all.

3           HEARING OFFICER RENAUD: Well, but --

4           MR. CAMPOPIANO: And this is --

5           HEARING OFFICER RENAUD: Excuse me. Who  
6 is that?

7           MR. CAMPOPIANO: I'm sorry. This is Mark  
8 Campopiano, Counsel for -- for the applicant.  
9 I'm stepping in for Mike Carroll --

10          HEARING OFFICER RENAUD: All right.

11          MR. CAMPOPIANO: -- my partner who had to  
12 step out for the moment.

13          And I just wanted to echo that as well.  
14 I mean, one, this is not an evidentiary hearing.

15          And also, to the extent that there were  
16 statements that interveners heard from CRC, I  
17 mean, this is an ongoing active negotiation where  
18 CRC is looking to get a good price for the deal,  
19 and they're still considering it.

20          So whether statements made to individuals  
21 or even in the public need to be kept in that  
22 context, as well, that this was still part of a  
23 negotiation. And they're looking for  
24 opportunities for leverage possibly.

25          And it also reflects, though, that the

1 effort, the diligence was there on behalf of the  
2 applicant. There's the -- the diligence in this  
3 attempt to resolve this meeting issue is the  
4 critical point, that they understood and continue  
5 to understand that this is the leading issue for  
6 this project. So instead of focusing on these  
7 other areas that we recognize are still  
8 outstanding, such as the water and how some other  
9 concerns will be addressed, the applicant has  
10 focused its energies, and the agency's energies  
11 to the extent they have time, to resolve this key  
12 issue.

13 HEARING OFFICER RENAUD: Campopiano,  
14 C-A-M-P-O-P-I-A-N-O, I think it is.

15 COMMISSIONER MCALLISTER: I had a  
16 question for the --

17 MR. CAMPOPIANO: Yeah. Right.

18 HEARING OFFICER RENAUD: Commissioner  
19 McAllister has a question for you.

20 COMMISSIONER MCALLISTER: A question for  
21 the applicant. You refer to a Dr. Friedman,  
22 Julio Friedman. And could you just tell us  
23 exactly who that is?

24 MR. CROYLE: Oh, yes. He's -- they have  
25 so many titles -- an Assistant Deputy Secretary

1 or something. But he was -- he was responsible  
2 for the major demonstration projects under the  
3 CCPI program. So HECA --

4 COMMISSIONER MCALLISTER: For the  
5 Department of Energy? For the Department of  
6 Energy?

7 MR. CROYLE: For the Department of  
8 Energy.

9 COMMISSIONER MCALLISTER: Okay.

10 MR. CROYLE: He's in the Department of  
11 Energy. I think he has a different position now.  
12 But -- but at the time in question he was the  
13 head of the fossil fuel area that was responsible  
14 for getting the demonstration projects done.

15 COMMISSIONER MCALLISTER: So I guess I  
16 just would say, I mean, again, this is about  
17 diligence and the applicant having, you know,  
18 demonstrated or our really understanding whether  
19 or not the applicant has been giving it that best  
20 effort, and not -- not about whether they've been  
21 successful with that effort or whether, you know,  
22 whatever anybody's opinion is about the merits of  
23 the project per se. So I think I'm trying to  
24 dis-aggregate those issues because they are  
25 different issues.

1           MR. CAMPOPIANO:  And if may -- this is --  
2 this is Mark Campopiano again with Latham.

3           You know, it is important to remember  
4 that this is not a normal offtake agreement that  
5 we're seeking.  This is a first-of-its-kind  
6 project in California of critical importance to  
7 state and federal greenhouse gas policies.  And  
8 it's -- it's something where we see it all the  
9 time where new technologies are involved;  
10 investors, businesses, others are very slow to  
11 consider new activities, new agreements.

12           So while we fully understand that time  
13 has passed, in -- in terms of getting a new party  
14 or reaching a new agreement with CRC on a first-  
15 of-its-kind type of offtake agreement where  
16 there's a lot of things, a lot of important high-  
17 cost issues that need to be worked through, all  
18 those things take time.  And that's what HECA has  
19 been doing is diligently trying to resolve those  
20 issues on what is -- what is clearly not an off-  
21 the-shelf type of situation here.  It is a very  
22 unique situation.

23           HEARING OFFICER RENAUD:  All right.  Do  
24 you want --

25           COMMISSIONER MCALLISTER:  Yeah, I guess

1 the -- you know, there a number of areas where I  
2 think, you know, substantively there are possibly  
3 more questions now than there were, you know, a  
4 year ago, and in particular the offtake of the  
5 carbon. And you know, if you don't have a sort  
6 of solid corporate partner that's committing to  
7 this then -- then what's the replacement for  
8 that?

9           And I'm saying this now because I hear  
10 you saying that this is a groundbreaking project  
11 and that it's developing fundamental technology  
12 and that there's, you know, this sort of bigger  
13 goal in mind to demonstrate technology. And all  
14 those points are taken. But that's just  
15 highlighting the fact that you need really solid  
16 buy-in from proven partners really. So I think  
17 you're highlighting kind of a weakness here that  
18 I want to just note and invite the parties to  
19 comment on.

20           MR. CROYLE: Yeah. I'd be happy to  
21 comment on that.

22           MS. ISSOD: Can I -- can I comment on  
23 that?

24           MR. CROYLE: First of all --

25           HEARING OFFICER RENAUD: Mr. Croyle, go

1 ahead, and then we'll --

2 MR. CROYLE: Yeah.

3 HEARING OFFICER RENAUD: -- go to Ms.  
4 Issod.

5 MR. CROYLE: First of all the -- the need  
6 for a substantial corporate partner like Occi was  
7 when this project got underway is not as critical  
8 today as it was then because, in fact, you had to  
9 rely on the credit of that offtake so that you  
10 could continue operating. That's the importance  
11 of going to Class VI Well Certification in  
12 working with the -- the geology that we know  
13 exists that can take -- that we can -- we can  
14 put -- where we can put the Co2 and never do EOR.  
15 We don't need the revenue stream. But we do --  
16 we do need to permit the wells to inject the Co2,  
17 as FutureGen did in Illinois.

18 In fact, my prediction of how this is  
19 going to play out is that's what we're going to  
20 do. We're going to come back to you with --  
21 after some more work with the national labs and  
22 we're going to say this -- this is the proper  
23 thing to do for getting CCS off the ground in  
24 California. We will then come back to you  
25 sometime in the future, if it makes sense to an

1 EOR with somebody, and ask for an amendment. And  
2 we'll just -- but we'll -- we'll deal with that  
3 at the appropriate time.

4 I will tell you that we've been in some  
5 discussions, that I'm under strict  
6 confidentiality to -- to not disclose, with some  
7 smaller producers where we would enter into a  
8 partnership arrangement where -- where they don't  
9 have the capital to put the -- the fields in  
10 place, and that could be rolled into the project  
11 and the capital recovered through the -- the  
12 increased production of oil.

13

14 But I think the cleanest thing for this  
15 project and this Commission and getting this --  
16 this demonstration project underway is to do  
17 geologic storage without EOR. And I'm convinced  
18 that -- that we have the means to do that.  
19 That's what we were going to do in this project  
20 initially in New Jersey, it was geologic. So  
21 we -- we have the people to work with to make  
22 sure that that's done appropriately.

23 HEARING OFFICER RENAUD: All right.

24 Thank you.

25 Now, Ms. Issod, if you would state your

1 peace.

2 MS. ISSOD: Thank you.

3 HEARING OFFICER RENAUD: And I think  
4 we'll -- then we'll move on.

5 MS. ISSOD: Yeah. I was trying to keep  
6 my remarks very focused. But Applicant  
7 bringing -- I need to be able to -- I appreciate  
8 the chance to respond to these remarks about, you  
9 know, how critical this project is and as -- and  
10 the fact of it being a demonstration project as  
11 an excuse for further delay. So I need to point  
12 out a few things.

13 Basically, every one of these  
14 sequestration, these coal slash, you know,  
15 sequestration projects has -- have crashed and  
16 burned over the last number of years, with one  
17 glaring exception. The only state that has  
18 approved a project is Mississippi. And that  
19 project continues to be an unmitigated financial  
20 disaster with a price tag that has spiraled from  
21 originally somewhere around \$2 billion to now  
22 well over \$6 billion. I'm sure the Commissioners  
23 are aware of some of the other facts surrounding  
24 that situation.

25 FutureGen did obtain a Class VI Permit,

1 and there's quite a process to obtain that. But  
2 of course, that project has now been canceled,  
3 despite the government spending more than \$1  
4 billion on it and over a decade of planning and  
5 process. And DOE's statements to the press have  
6 indicated that, you know, likely HECA is dead for  
7 the same reason as FutureGen, we just can't tie  
8 up the pieces, we just can't get it. Kemper was  
9 approved in Mississippi on the backs of some of  
10 the poorest ratepayers in the country. And you  
11 know, they didn't have all the pieces together is  
12 what we're seeing now.

13           So I think that's my piece on the  
14 demonstration issues.

15           On the suspension questions I was -- I  
16 was putting off comment but I feel that since  
17 it's been raised, and you indicated you would  
18 hear some comments on suspension, I'd like to say  
19 a few things.

20           Again, we're urging for termination. If  
21 the Committee is considering suspension -- and we  
22 very much appreciate Staff's comments that we  
23 need a clear ending to this process. So if the  
24 Commissioners are going to be considering a  
25 delay, a suspension, then we have a number of

1 ideas on touch-points and deadlines to  
2 incorporate into a suspension so we could have  
3 some -- some finality and some security around  
4 what -- what we need to see from -- from this  
5 applicant to either keep going or to terminate  
6 the proceeding.

7           So what we'd like to see is the applicant  
8 is asking for a six-month suspension. We'd like  
9 to see the Co2 plan by the end of that six-month  
10 period. And if that plan is not available then  
11 they should not receive any further extensions  
12 and the -- the proceedings should be terminated.

13           If they do come forward with a plan at  
14 the end of six months then the CEC should impose  
15 some conditions on that reactivation. And along  
16 in the six-month period we would recommend  
17 monthly status reports with evidence, if  
18 possible, not just these sort of vague statements  
19 about progress being made. And we should keep  
20 working on these water issues and not just, you  
21 know, leave them hanging.

22           Within 30 days of reactivating the  
23 proceeding we would recommend the applicant  
24 submit responses to all the unresolved questions  
25 from Staff on water and Co2 and other areas. And

1 within 60 days a public meeting for all  
2 interveners and the public in the Buttonwillow  
3 area to explain all the new changes in the  
4 proposal and to provide an opportunity to ask  
5 further questions.

6           So that's just our initial ideas, having  
7 received this motion yesterday.

8           HEARING OFFICER RENAUD: Okay. Thank  
9 you.

10           I would encourage the parties, in fact  
11 anybody who wants to submit anything in response  
12 to the request for suspension to do so by e-  
13 filing in the docket. And the Committee will be  
14 reviewing that -- that matter over the next  
15 couple of weeks. Well, it's the -- we would like  
16 to see any responses within 15 days. And  
17 hopefully we'd have a ruling on that within 30  
18 days. But we are -- we've heard your comments  
19 and we will take those to heart.

20           Now on the motion to terminate, let me  
21 say, first, the Committee is not going to rule on  
22 that today. We will not make a decision today.

23           Looking at the applicant's response  
24 again, and referring back to these several pages  
25 of activities that are listed starting in

1 November of 2013 and going until March of this  
2 year, reading through all of that, I mean,  
3 none -- none of that is reflected in our docket  
4 or in anything that the Committee can, you know,  
5 get its hands on and look at. And I think the  
6 Committee would -- would feel much more  
7 comfortable in considering those statements from  
8 the applicant if we could have those in the form  
9 of a declaration.

10           And, Mr. Campopiano or Mr. Carroll, if  
11 you're still on the line I would like to propose  
12 that as -- as a Committee request that instead of  
13 that being set forth in the form of statements  
14 in your -- in your motion -- or in your response  
15 to the motion that you would submit a sworn  
16 declaration from somebody that -- that could be  
17 docketed, and it could be something the Committee  
18 could consider.

19           MR. CAMPOPIANO: Okay. Understood.

20           HEARING OFFICER RENAUD: All right.

21 Great. Thank you.

22           Anything else? All right, good.

23           Okay, I think we're -- we're done then  
24 with the -- the motion to terminate the AFC. I  
25 thank the parties for their efforts on that. And

1 as I say the Committee will deliberate and rule  
2 on that in the new future.

3           The next item on the agenda then would be  
4 public comment. And I have received some blue  
5 cards from people who are present, so I think  
6 we'll start with those. And the -- I would ask  
7 that when I call your name you come up here to  
8 the podium and speak into that microphone, state  
9 your name, and give us your concise comments. We  
10 would like to limit those to three minutes, if  
11 possible.

12           Mark Lamboy?

13           MR. LAMBOY: Thank you, Commissioners.  
14 Mark Lamboy. I'm a neighbor of this proposed  
15 project to the extent that I'm right next door to  
16 it, as close as you could get. I've spoken over  
17 the years at the, you know, Board of Supervisors  
18 and the Town Hall meetings, and every time we  
19 gather. And so here I am again. And I don't  
20 want to, you know, bring a lot of drama to this  
21 thing for you. I just still have the same  
22 concerns that I've always had.

23           Every point I've heard by the three  
24 parties over here, I agree 100 percent with  
25 everything they said. As things evolve and I

1 almost -- it's almost like you feel sorry these  
2 guys are working so hard. But the thing still --  
3 you know, I don't know, my mind is just swimming  
4 with so many things I want to say under three  
5 minutes. But it still blows me away how the  
6 blunt-nose lizard could just send that thing that  
7 quickly away. And here we are, human beings  
8 farming, deeply involved and invested in a  
9 permanent planning right next door. We don't  
10 know really what this could do to us.

11           I complained about chilling hours. I'm  
12 just picking topics here. Chilling hours is a  
13 critical thing for pistachios. And when I  
14 mentioned that the plant seemed to, you know,  
15 slide about a quarter-acre away so that could  
16 maybe help with that issue. But we just don't  
17 know what this thing would do to us, you know?  
18 It's -- it's new. It's an experiment. It's not  
19 in the right place. Never was. I don't see how  
20 it could ever be a good fit. We've got air,  
21 water, traffic, talk of seismic -- potential  
22 seismic things. I mean, there's a fault there.  
23 Nobody needs any earthquakes around here. You  
24 know, I just -- it gets me just -- sorry. I  
25 don't want to be -- I don't want to be weird

1 about it here but it's -- it's hard.

2 So we just encourage you to do the -- you  
3 know, really look at it. I'm sure you are. Like  
4 you're not. But it's just getting harder. It's  
5 taken a long time, a lot of years. Thank you.

6 HEARING OFFICER RENAUD: Thank you for  
7 coming up to speak with us.

8 Marian Vargas?

9 MS. VARGAS: Hi. I'm a community member  
10 from Kern County. I live in Bakersfield.

11 We cannot afford to lose vast amounts of  
12 pressure water to HECA. Due to our ongoing  
13 drought some communities do not even have  
14 drinking water. We should not be using the  
15 limited water resources that we do have to cool  
16 HECA.

17 An alternative suggested by the CEC staff  
18 is to use dry cooling. But the applicant has not  
19 pursued this option.

20 What about the byproducts of HECA?  
21 Although the applicant has managed to use  
22 millions of dollars of DOE and taxpayer-funded  
23 monies, they are years behind deadlines for  
24 securing a commitment to offtake the Co2, to  
25 establish a plan for disposal of waste, or find a

1 market for their volatile chemical fertilizer and  
2 other products. The applicant has not shown due  
3 diligence to resolve these issues while the CEC  
4 waits and those who would be so negatively  
5 affected by the HECA project have put their lives  
6 on hold.

7           When we in Kern County already breathe  
8 some of the worst air in the nation, how can the  
9 CEC possibly justify making it worse by allowing  
10 HECA to bring in dirty coal in open rail cars and  
11 diesel trucks, creating more toxic pollutants,  
12 waste and hazardous materials?

13           The purpose of a power plant is to  
14 generate power. But HECA, as proposed, would  
15 contribute very little if any net energy to the  
16 power grid. I cannot help but ask: Why is the  
17 CEC even considering permitting a fertilizer  
18 plant?

19           In response to the petition to terminate  
20 the application process the applicant touted its  
21 work with Savage Coal to obtain an amendment to  
22 the CUP, allowing coal terminal transports to  
23 increase from 200,000 to 1.9 million tons per  
24 year, operating 24 hours a day with uncovered  
25 railcars offloading to diesel trucks every six to

1 eight minutes all across the street from farm  
2 labor housing and a daycare center without doing  
3 an environmental impact report.

4 Councilman John Martin cast the tie-  
5 breaking vote to pass the expansion amendment.  
6 He was later found by the FPPC, the Fair  
7 Political Practices Commission, to have cast his  
8 vote illegally, having known that he had a clear  
9 conflict of interest and that he was violating  
10 California Ethics Law in doing so. He was fined  
11 \$4,000. But the amendment still stands. This is  
12 an environmental justice issue that cannot be  
13 ignored.

14 To address this issue the CEC could  
15 require that an environmental impact report be  
16 done on the expansion of Wasco -- of the Wasco  
17 Coal Terminal handling capacity before any permit  
18 would be granted to HECA.

19 Thank you very much for listening to and  
20 considering my comments.

21 HEARING OFFICER RENAUD: Thank you. All  
22 right.

23 Christina Snow?

24 MS. SNOW: Hi. I'm Christina Snow. And  
25 I'm a farmer in Buttonwillow. And I also own a

1 house on Stockdale Highway, which is about a mile  
2 from the proposed HECA plant. And it's a rental  
3 income property. And my tenant has been there  
4 for three years and he would love to buy the  
5 house. But knowing that HECA might be built  
6 within a mile, a clear view -- we have a clear  
7 view of the proposed plant, he doesn't -- he  
8 wouldn't want to live there if this thing goes  
9 through, but also he's not going to buy.

10           And so, you know, I'd like to sell this  
11 house, and this thing just keeps going on and on  
12 and on. And how much longer? You know, is this  
13 going to -- you know, you -- this thing has  
14 impacted our lives and it's impacted us  
15 financially. And we're just being put on hold.

16           And so I would, you know, urge you to put  
17 some -- you know, try to terminate or at least we  
18 need some answers on this. That's all.

19           And anyway, so thank you very much.

20           HEARING OFFICER RENAUD: And thank you  
21 for coming to speak with us today.

22           And we have now Ted Walker?

23           MR. WALKER: Ted Walker. I'm a local  
24 architect here in Sacramento. But my father has  
25 run Elk Hills Naval Petroleum Reserve from 1950

1 to about '72 when it was decommissioned. The oil  
2 industry has had ups and downs. And that --  
3 since then it's been operated. They just  
4 recently let a bunch of people go from Elk Hills.  
5 In fact, they've reduced their -- their staff out  
6 there.

7           So that's part of the problem with the  
8 energy sector, it's very volatile. As we know,  
9 the prices have gone down recently. But that  
10 \$408 million is really -- a lot of it is  
11 California taxpayer money that's coming back to  
12 California. So as a libertarian I'd like to see  
13 California taxpayers reap the benefits to that.  
14 And think this proposal does that significantly.

15           But to the issue of the termination of  
16 the -- of the project, I'd like to refer to page  
17 two of the proposal by Sierra Club. Actually, I  
18 attended all the meetings at Buttonwillow. And  
19 there's -- there's a lot of local support from  
20 the local community. In fact, there's probably a  
21 majority of support.

22           The situation with the coal in Wasco,  
23 there's been several coal plants that have been  
24 shut down in the area. So -- and there's coal  
25 that's brought up through the San Joaquin Valley.

1 It's shipped to China. The potash is currently  
2 burned in other areas of the country or the  
3 world, let's put it this way -- that way. So I  
4 think it's -- it's actually not really as  
5 impactful that the coal would be used in this  
6 facility. In fact, the statement in here about  
7 burning coal on page two, the middle of the  
8 second -- or the first paragraph, my  
9 understanding is there is no coal burned.

10           And it is one of the most polluted basins  
11 in the country, but this plant would  
12 significantly improve the air pollution  
13 situation. Because what you're doing is taking  
14 dirty water and put it in a gasifier with coal  
15 and breaking down the hydrogen and the oxygen --  
16 or the -- the O and the H goes to the Co2 and  
17 then it's put in the -- in the ground.

18           Part of the problem with the Co2 being  
19 sequestered in Elk Hills is you have a different  
20 regulatory regime in the state under DOGGR, you  
21 have the Energy Commission, and we have a  
22 situation there where it's a well proven and  
23 developed piping system which is perfect for Co2.

24           Now I can understand that the Occidental  
25 would be very concerned because they have

1 basically a perfect storm of having the Energy  
2 Commission, DOGGR and the Clean Water Act all  
3 hitting them at the same time. The liability  
4 associated with that is -- is incredible. The  
5 fact that they've offloaded Elk Hills to an  
6 independent corporation is not surprising to me.  
7 And I think it would be -- in fact, I think it  
8 would probably take longer than six months  
9 because it's going to take some time for the  
10 federal government to go back and revise that  
11 original plan that when they sold Occi to -- the  
12 federal government sold Occi.

13           So you know, I think the Energy  
14 Commission needs to work with Elk Hills. It's  
15 the perfect spot for carbon sequester. You also  
16 have some of the emerging technologies that are  
17 coming up in terms of you can take natural gas,  
18 according to your carbon workshop a few weeks  
19 ago, and put it in a gasifier and do the same  
20 thing without the products. But the good thing  
21 about the -- about taking coal, which I don't  
22 think is -- is as big a problem as the  
23 interveners have proposed, is you're -- you can  
24 eliminate a lot of mining for precious metals.  
25 You can -- you can -- you've got a product for

1 sulfur, ammonia, fertilizers. You're not  
2 shipping them from a dirty plant into your China.  
3 And I think it should be a focus of the Energy  
4 Commission to develop some demonstration plants  
5 on this.

6           And I'll try to put some of these  
7 responses to some of the other information in the  
8 Sierra Club questions in a letter. Thank you.

9           HEARING OFFICER RENAUD: Thank you, sir.

10           Okay, I have two more blue cards.

11           The first one, Mr. Vargas? And if we  
12 could get your full name please?

13           MR. VARGAS: Muchas Gracias. Senor  
14 Rogelio (phonetic) Vargas. (Speaking Spanish.)

15 [English Translation of May 6, 2015 Comments from Rogelio Vargas](#)

16           HEARING OFFICER RENAUD: Gracias.  
17 (Speaking Spanish.)

18           MR. VARGAS: (Speaking Spanish.)

19           HEARING OFFICER RENAUD: All right.  
20 Thank you. And just -- just to let the audience  
21 know, both Commissioners speak Spanish and  
22 understood what was said. And we'll try to have  
23 a translation in the transcript.

24           Okay, last blue card I have is from Chris  
25 Romanini, speaking for Beau -- did you write

1 Antongiovanni? All right. Well, you've already  
2 spoken once, so I want you to keep your remarks  
3 brief please.

4 MS. ROMANINI: I'm strictly -- do you  
5 want me to go to the podium?

6 HEARING OFFICER RENAUD: Yes, please.

7 MS. ROMANINI: Beau Antongiovanni sent me  
8 with a letter, so I'm just reading his letter.  
9 And he wanted me to affirm, once again, that he  
10 submitted a salinity field test. It's docketed  
11 where it shows the -- the TDS that Buttonwillow  
12 crops can thrive with, with -- especially with  
13 blending of water. And that's so significant to  
14 think that we haven't addressed the industrial  
15 use of this water when we know it's usable water.

16 Anyway, to briefly summarize his letter,  
17 he says,

18 "We cannot afford to pump an additional 7,500  
19 acre feet of water from our aquifer each year  
20 to supply the HECA plant. When approximately  
21 the 500 acres that the plant would sit on is  
22 farmed it uses at most about 2,500 acre feet  
23 a year. HECA would use more than three times  
24 the amount of water required to farm the same  
25 piece of land.

1       "The state has ordered farmers to get into  
2       sustainable water balance in the coming  
3       years. There are some in the San Joaquin  
4       Water Coalition that say we should be limited  
5       to using one acre foot of ground water per  
6       acre to become sustainable. HECA would use  
7       more than 15 times that amount. The state  
8       should not even consider the project that  
9       uses this much water at this time. HECA is  
10      unsustainable and its application should be  
11      terminated.

12      "They're trying to build this plant in the  
13      wrong location. And we all just want to get  
14      on with our lives. We wish you would see  
15      that they're not making process, they haven't  
16      made any inroads into the many areas we've  
17      shown that the water is inadequate, and we  
18      just ask you to say enough is enough. Let us  
19      get on with our lives."

20               Thank you.

21               HEARING OFFICER RENAUD: Okay. That is  
22 all of the commenters I have in the room.

23               I would like to ask, Mr. Celli, if you  
24 would un-mute the callers and we'll ask if  
25 there's anyone on the phone would like to make a

1 public comment. If you're -- if you're calling  
2 in and you'd like to make a public comment,  
3 please speak up.

4 MR. GILLESPIE: Hi. Good afternoon.  
5 This is Evan Gillespie. Can you hear me?

6 HEARING OFFICER RENAUD: Go ahead. Go  
7 ahead.

8 MR. GILLESPIE: Great. Hi. Again, my  
9 name is Evan Gillespie. I wanted -- well, I work  
10 with the Sierra Club. And I appreciated  
11 everybody's comments today. I wanted to take a  
12 moment just to share some of my quick shots.

13 You know, the Sierra Club's longstanding  
14 position on this project is that it's just -- it  
15 simply doesn't make sense for California. It  
16 doesn't sit with our vision for the future. You  
17 know, the state has worked very hard over the  
18 last several years to rid itself of coal which is  
19 dirty for so many other reasons just, you know,  
20 beyond its impact on climate change. From air to  
21 water to waste, there are a number of concerns  
22 around coal. And this project certainly, I  
23 think, would go a long way to exacerbate many of  
24 those problems.

25 And I want to remind the Commission and

1 the folks that very utility in the state now has  
2 a plan to out-of-state coal. And the legislature  
3 is discussing divestment. And so one of the  
4 things I was thinking about today in hearing  
5 everybody's comments is I'm still really  
6 struggling to understand which aspect of the  
7 project is really in California's best interest  
8 and why the state has -- has an interest in  
9 seeing the project move forward?

10           You know, the other concern that I have  
11 and, you know, I don't know what the Energy  
12 Commission can do about this at this point but,  
13 you know, the scandal over at the Public  
14 Utilities Commission and the central role that  
15 this project played in that scandal, which is  
16 still unfolding, it's hard for me to see how this  
17 project moves forward in a way that restores  
18 public trust. To me I think to the crowd this  
19 project is permanently tainted. And it's hard to  
20 understand under what circumstances, both on the  
21 environmental side as well as just sort of the  
22 governing side of this, under what conditions  
23 this project would actually be able to move  
24 forward.

25           So I appreciate you taking the time to

1 hear my thoughts. And I thank you again for the  
2 hearing again.

3 HEARING OFFICER RENAUD: Great. Thank  
4 you for your comment.

5 Let me ask if there's anyone else on the  
6 phone who would like to make a public comment at  
7 this time? If you wish to make a public comment  
8 by phone, please go ahead.

9 All right, hearing none I think we will  
10 close public comment.

11 The next item on the agenda is -- is  
12 closed session. Under Government Code section  
13 11126 the Committee may convene to closed session  
14 to deliberate on a decision to be reached in a  
15 proceeding the state body was required by law to  
16 conduct.

17 The Committee will now convene into  
18 closed session to discuss the matters that have  
19 been discussed today, primarily the schedule and  
20 the -- the motion to terminate the AFC.

21 At the conclusion of the closed session I  
22 will come back and indicate that the Committee  
23 has -- has ended its closed session and I will  
24 report on anything that the Committee wants me to  
25 report. And at that time the meeting would be

1 adjourned.

2           So, okay, so let's -- just so people  
3 don't have to hang around, let's say three  
4 o'clock is --

5           (Colloquy Between Hearing Office and  
6 Commissioners)

7           HEARING OFFICER RENAUD: Okay, I've just  
8 been informed by the Presiding Member that --  
9 that we won't have a decision to -- to provide to  
10 you when we come out of closed session. So you  
11 actually need not hang around and wait for the  
12 three o'clock announcement. But I am required to  
13 come back and indicate that closed session has  
14 ended and adjourn the meeting.

15           So with that the Committee will convene  
16 into closed session. And I will be back here at  
17 three o'clock to adjourn the meeting.

18           I see Ms. Issod has her hand raised.

19           MS. ISSOD: Just a quick question. If  
20 you -- if you do say something, I think a number  
21 of us have to get on the train, can -- is that  
22 going to be in the record before --

23           HEARING OFFICER RENAUD: Oh, yes.

24           MS. ISSOD: -- we get the transcript?

25           HEARING OFFICER RENAUD: It would

1 absolutely be in the record.

2 MS. ISSOD: Okay.

3 HEARING OFFICER RENAUD: Absolutely.

4 MS. ISSOD: Thank you.

5 HEARING OFFICER RENAUD: Yes.

6 PRESIDING MEMBER DOUGLAS: However, we  
7 promise you, we're not going to say anything  
8 interesting at three o'clock, so --

9 COMMISSIONER MCALLISTER: Thanks,  
10 everybody, for being here.

11 HEARING OFFICER RENAUD: Thank you.

12 PRESIDING MEMBER DOUGLAS: Thank you.

13 (Whereupon, the Committee adjourned into  
14 Closed Session.)

15 (Off the record at 2:19 p.m.)

16 (On the record at 3:00 p.m.)

17 HEARING OFFICER RENAUD: I am Raoul  
18 Renaud, the Hearing Officer for the Hydrogen  
19 Energy California Project, returning from the  
20 closed session conducted by the Committee. The  
21 Committee adjourned into closed session to  
22 deliberate regarding the matters discussed at  
23 today's hearing, and ended its closed session at  
24 2:45 p.m. today.

25 The Committee has nothing to report to

1 you at this time. It will issue a written  
2 response to the pending motions shortly.

3           And thank you for your participation  
4 today. And this ends the status conference and  
5 hearing on motion.

6           (Whereupon, the meeting was adjourned at 3:01  
7 p.m.)

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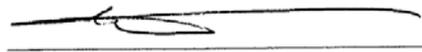
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**REPORTER'S CERTIFICATE**

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of June, 2015.



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PETER PETTY  
CER\*\*D-493  
Notary Public



CERTIFICATE OF TRANSCRIBER

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

I certify that the foregoing is a correct transcript, to the best of my ability, from the electronic sound recording of the proceedings in the above-entitled matter.



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MARTHA L. NELSON, CERT\*\*367

June 8, 2015