<table>
<thead>
<tr>
<th><strong>Docket Number:</strong></th>
<th>08-AFC-08A</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Title:</strong></td>
<td>Hydrogen Energy Center Application for Certification Amendment</td>
</tr>
<tr>
<td><strong>TN #:</strong></td>
<td>205206</td>
</tr>
<tr>
<td><strong>Document Title:</strong></td>
<td>Transcript of June 22, 2015 Committee Conference and Closed Session</td>
</tr>
<tr>
<td><strong>Description:</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Filer:</strong></td>
<td>Cody Goldthrite</td>
</tr>
<tr>
<td><strong>Organization:</strong></td>
<td>Energy Commission Hearing Office</td>
</tr>
<tr>
<td><strong>Submitter Role:</strong></td>
<td>Committee</td>
</tr>
<tr>
<td><strong>Submission Date:</strong></td>
<td>7/1/2015 10:35:59 AM</td>
</tr>
<tr>
<td><strong>Docketed Date:</strong></td>
<td>7/1/2015</td>
</tr>
</tbody>
</table>
BEFORE THE CALIFORNIA ENERGY COMMISSION

In the Matter of:  ) Docket No.

Amended Application for Certification ) 08-AFC-08A

HYDROGEN ENERGY CALIFORNIA PROJECT )

_______________________________

COMMITTEE CONFERENCE
AND CLOSED SESSION
CALIFORNIA ENERGY COMMISSION
1516 Ninth Street
Sacramento, California

MONDAY, June 22, 2015
3:00 P.M.

Reported by Peter Petty
APPEARANCES

COMMITTEE:
Karen Douglas, Presiding Commissioner
Andrew McAllister, Associate Commissioner

HEARING OFFICER:
Raul Renaud, California Energy Commission

ADVISORS:
Le-Quyen Nguyen, Advisor to Commissioner Douglas
Pat Saxton, Advisor to Commissioner McAllister
Eileen Allen, Commissioner’s Technical Advisor for Facility Siting

CEC STAFF:
John Heiser, Project Manager
Jared Babula, Staff Counsel

PETITIONER:
James Croyle, Hydrogen Energy California, LLC

INTERVENORS:
Tom Frantz, Association of Irritated Residents (AIR)
Chris Romanini, HECA Neighbors
PUBLIC COMMENT:
Trudy Douglas
Evan Gillespie
Ann Gallon
INDEX

Call to Order 5
Introductions 5
Public Comments 8
Adjourn 26
Reporter's Certification 27
Transcriber's Certification 28
HEARING OFFICER RENAUD: Good afternoon. This is the Hydrogen Energy California Project at the California Energy Commission in Sacramento. We’re conducting a committee conference and closed session deliberation this afternoon.

This is Raul Renaud. I’m the hearing officer for the matter. Here in the room next to me is the presiding member of the committee, Karen Douglas. Also present is counsel for staff, Jared Babula, and the project manager for CEC, John Heiser. Also present are Eileen Allen, the technical advisor for the commissioners for siting, and Le-Quyen Nguyen, who is one of Commissioner Douglas’s advisors.

We posted the agenda on the WebEx screen, and so I think we’ll just follow the agenda. We’ve done the call to order. Let’s do introductions.

I’ve introduced people in the room. Are there any people on the phone who would like to introduce themselves? I believe we heard from Jim Croyle, who is with the Applicant.

MS. ROMANINI: Yes, this is Chris Romanini with HECA Neighbors, Buttonwillow.

HEARING OFFICER RENAUD: Good. Thank you for
calling in, and I know you’re one of the interveners in the case.

Anyone else on the phone wish to introduce themselves?

MS. DOUGLAS: Yes, my name is Trudy Douglas, a citizen of Bakersfield.

HEARING OFFICER RENAUD: Thank you, and thank you for calling in.

Anyone else?

MS. DOUGLAS: Yes, I’d like you to know that I cannot login. It says the meeting number is incorrect so I’m having to use my telephone.

HEARING OFFICER RENAUD: Oh.

MS. DOUGLAS: So it does not -- and then when it says to try this verification number, it doesn’t take it, so you’re having some massive problems with WebEx. It says the meeting password is not correct.

HEARING OFFICER RENAUD: Oh, the password.

MS. DOUGLAS: The meeting password, yes, the 1516 is not correct.

HEARING OFFICER RENAUD: DWD#1516? That should be it.

MS. DOUGLAS: I’m having trouble with it.

HEARING OFFICER RENAUD: Well, you’re not missing anything by not seeing the screen anyway, so
we could just dispense with that.

MS. DOUGLAS: Very good. Okay.

HEARING OFFICER RENAUD: All right, does anyone else wish to introduce themselves? No, okay.

COMMISSIONER DOUGLAS: You might point out other people on the WebEx site (inaudible).

HEARING OFFICER RENAUD: That’s a good point.

Sure, okay.

Okay. So we also now have joined us Commissioner McAllister, who is the associate member of the committee, and his advisor, Pat Saxton.

Do we have any of the other interveners on the line? I’ll just call the roll.

Sierra Club?

Association of Irritated Residents?

NRDC?

MR. FRANTZ: Yes.

HEARING OFFICER RENAUD: Okay.

MR. FRANTZ: Tom Frantz here.

HEARING OFFICER RENAUD: Oh, hi Tom. Thank you for calling in. Okay. NRDC.

Environmental Defense Fund?

CURE?

Kern County Farm Bureau?

All right. Are there any government agencies
present on the line? Representatives of government agencies, local, state, or federal?

Okay. Representatives of any Native American tribes on the line?

All right. Well, I think we’ve completed the introductions, then.

The next item on the agenda will be public comment. We will allow anybody who wishes to to make a brief public comment and address the committee. After that the committee will convene into closed session to deliberate concerning the pending motion to terminate the AFC and the pending request to suspend the project for six months.

At the end of the closed session, I will return and adjourn the meeting. I can tell you that the committee will not have a decision to disclose to you today. It will be issued in writing hopefully within the next two weeks.

All right, let’s move now to public comment. Does anyone wish to make a public comment? If you do, speak up please.

MS. ROMANINI: I do. My name’s Chris Romanini.

HEARING OFFICER RENAUD: Go ahead, please.

MS. ROMANINI: Okay. I’m a member of HECA
Neighbors, and I’m from the community whose lives have been on hold for years because of this, of HECA.

I’m hearing a lot of noise. Typing maybe.

Our question is, are they moving forward in good faith to resolve the issues with HECA?

Number one, they have closed (interference) their intentions are not to move forward. They have moved out and they moved on.

HEARING OFFICER RENAUD: Can you hold on for one moment, we’re going to try to mute the noise, okay? Hold on for one second.

MS. ROMANINI: Thank you.

FEMALE: I think I’m going to mute everybody and try and unmute her.

HEARING OFFICER RENAUD: Yeah.

All right, go ahead, Ms. Romanini, please.

MS. ROMANINI: -- chemical product line for transportation.

No. This is deceptive work. HECA has known for years that a chemical factory is not allowed in ag zoning. HECA is being dishonest to mislead the CEC commissioners on the scope of what is allowed.

Obviously, to mislead the commissioners is not good faith, and I question their integrity.

Number three. Last October 8th locals knew...
that neither Occidental nor California Resources was
going to buy HECA’s CO2. We met with the CEO of
California Resources, that’s Todd Stevens, and he told
us locals that, no, they weren’t buying it.

HECA should have known well before Mr.
Stevens told us. HECA should have moved forward with a
new plan then, not wait nearly a year before looking
for a new buyer.

If there’s no one to buy their CO2, they have
now invented another new plan. Their plan is to use
the power they produce to stuff all their CO2 directly
under their own prime farmland, right next to farmer’s
land. Is this within ag zoning? Is this allowed to
inject waste underground for 25 years? And can the
CO2 move?

How long will it take to investigate what
damage could happen to us in the neighborhood with
their CO2? Is it in good faith to the rest of us
neighbors to expose our land, our crops, and our
workers to this CO2 risk?

How long must our community be on hold as
HECA continues to reinvent itself because their
project is not viable as it was originally described?
How many years will it take to rezone this land. As
the planning director wrote last week and it was
docketed, it needs to be rezoned. How long will it take for a county general plan amendment or a new specific plan?

And then what about the Williamson Act cancellation issue? It was based on fertilizer and power, not on a potential industrial use.

So is HECA now, oh, oh, oh, if they backpedal and say, okay, we’ll only make fertilizer. How can you trust them? How can you police and monitor that they don’t sneak around and repack the chemicals for transportation stuff, because that’s what they have always wanted to produce.

But you, the CEC, you have the power to do the right thing. HECA is not moving forward in good faith. The locals have endured this prolonged agony for years. Terminate this ill-conceived project now.

I really can’t see how six months can add anything. There’s no way they’re going to get a single one of these county requirements done for the rezoning and all it does for the rest of us is frustrate our business plans. And so many of us are affected by these people trying to invent a project that they think somebody might buy.

Please do the right thing and cancel it today. Thank you.
HEARING OFFICER RENAUD: All right, thank you.

MR. BABULA: Can she repeat? She came in with number three. Can she repeat what number one was?

COMMISSIONER DOUGLAS: And two.

HEARING OFFICER RENAUD: All right. Ms. Romanini, are you still there?

MS. ROMANINI: Yes, I am.

HEARING OFFICER RENAUD: All right. We did have a little break in the audio. You had three items that you listed. Could you just give us one and two briefly again?

MS. ROMANINI: That they closed their local office. We can no longer go there and ask questions, but this shows us that their intentions are not to move forward because they’ve already moved out.

HEARING OFFICER RENAUD: All right.

MS. ROMANINI: Okay. Number two, they -- are they moving forward by reintroducing a chemical product line for transportation?

No, this is what they wanted to do all along. The County of Kern has repeatedly said you can’t do that in ag zoning. So this is deceptive work.

HEARING OFFICER RENAUD: All right.

MS. ROMANINI: HECA has known for years that...
1 a chemical factory is not allowed in ag zoning.

2 HEARING OFFICER RENAUD: Okay, we got it from
3 there on, so thank you very much.

4 MS. ROMANINI: How about the oxy part that
5 Todd Stevens told us on October 8th that they were not
6 buying the CO2 and neither was Oxy nor California
7 Resources.

8 HEARING OFFICER RENAUD: Yes, we got
9 everything from then on.

10 MS. ROMANINI: Okay.

11 HEARING OFFICER RENAUD: So we’re good. Thank
12 you so much.

13 All right. We have a request from Evan
14 Gillespie.

15 MR. GILLESPIE: Yes.

16 HEARING OFFICER RENAUD: Go ahead, please.

17 MR. GILLESPIE: Great, thanks so much. Hi
18 again, this is Evan Gillespie. I am a deputy director
19 with the Sierra Club’s Beyond Cool Campaign and I just
20 want to take a second up top to thank the Commission,
21 particularly the staff for all their work to probe
22 what are a huge number of concerns that we as
23 interveners and the public have brought forward about
24 the HECA project, so again thanks for your continued
25 diligence here.
I’ll start my comments by just saying, you know, when Sierra Club and Association of Irritated Residents and HECA Neighbors filed this motion to terminate we did so providing ample evidence that the developer failed to move the project forward in good faith, and I won’t repeat those arguments here but we do continue to stand behind all the point that we made.

The project is out of step with the public’s position for a clean energy future. There is just -- we cannot fathom a premise under which a project that strips land for coal, that rails it across three states, spewing coal dust and diesel pollution onto neighboring communities that dumps 500 tons of dangerous air pollution into one of the dirtiest air basins in the country.

I could go on and on. The draining of precious water resources. The fact that it’ll create far more waste than the County can reasonably consume. The project is just simply not in the best interest of the state and it’s hard to honestly proclaim in any circumstance that it could ever be clean.

Now, setting aside all of those unresolved concerns, the issue at hand that we are here to talk
about today is whether or not this project and whether
or not the developer in particular deserves more time
to resolve all these concerns.

So has the developer made efforts in good
faith to resolve the concerns? In our motion we argued
no and we continue to maintain that today. It wasn’t
actually until we more or less forced the question
that the developer actually took steps to respond to
inquiries from staff or from the public about the
status of the project. They waited until the day
before the last stakeholder meeting to file their
request.

In the May meeting Mr. Quail argued that
under the ever shifting scope, size, and purpose of
the project that it was changing yet again to account
for this new revenue stream. Their whole set of
cascading changes around the project that came as a
result of this change, including the potential PPA
with PG&E and other changes to the project that come
with this.

Since then, more information has come to
light that creates even more serious concerns about
the integrity of the project. I’m sure the Commission
has seen the June 19th letter from Kern County and
we’d certainly let them speak for themselves on this
point, but it is worth emphasizing that the County does make clear that inaccurate information was provided to the Commission. Not only was it inaccurate, but there does seem to be clear evidence that the developer misrepresented the project, making statements integral to the justification of the new scope of the project that are in direct conflict with what the County told them in previous meetings.

And I’m sorry if I sounded frustrated here, but the club and other interveners and the public have invested a lot of time and resources since that meeting pursuing some of the arguments that were made and to hear that that could have been avoided with what we think is more truthful representation of the facts is quite frustrating.

So given the fact that we no longer trust the developer, that we think we’ve been misled here, on top of all of the other unresolved issues. The fact that we seem to be back to square one that the developer has to get a change in zoning, it just seems impossible for this project to move forward and we would continue to urge the Commission to terminate the proceedings.

I appreciate your time.

HEARING OFFICER RENAUD: Thank you for your
Anyone else on the phone wish to address the committee?

MS. DOUGLAS: Yes, this is Trudy Douglas.

HEARING OFFICER RENAUD: Yes, go ahead.

MS. DOUGLAS: I would just like to speak to the character of the corporation.

The first thing they did when they came into our county was to start spending their government money trying to buy favors. And the American Lung Association are the only ones that saw through this and actually returned the money that was given them.

The corporation did not deal in good faith with you or with us. They have done nothing to say, you know, what they’re going to do with the waste. All they say is there’s a use for it.

I mean, they’ve had, what, three, four years to come up with something to do with it, but they have no suggestions. The same way they want things their way and no other way.

You have requested air cooling and they have refused to look at that. They have no consideration for our water deprivation that is now and probably into the future. They have no regard for health issues. They classify the risks having to do with the
They don’t look at even what the building of it will do to in putting Valley Fever spores into the air.

I mean, there’s nothing that this corporation is offering us in the way of help or protection. And the CO2 (interference) to start out pumping it in, but then they’ll decide it takes too much energy and there’s no profit in it for them, and so they’ll stop and who’s going to keep an eye on that sort of thing?

This corporation is not reliable. It is not a good fit for California. It cannot be trusted and has done nothing to give us any encouragement that they are looking out for us. This is all about having a company that consumes coal and produces chemicals.

Please, please, please, please say no to this company. It is two-faced. It is not reliable and they have not done any of the work that they need to do to make it fit our county. Thank you.

HEARING OFFICER RENAUD: Thank you. Let me ask now if there are any other parties to the case who wish to address the committee, and this would mean applicant, staff, or any of the interveners, if you would wish to please go ahead.

MR. FRANTZ: Yes, Tom Frantz.

HEARING OFFICER RENAUD: Yes, you’re with the
Association of Irritated Residents. Go ahead.

MR. FRANTZ: Okay. The current EPA application process should be terminated, and here’s why.

It’s been over a year. Last April 24th being that the HECA staff closed their public information office in Buttonwillow and cut their phone lines. Both the press and the public could get very little information out of HECA after that time. News stories followed with no comment from HECA.

It seems that around the same time the Department of Energy cut off funding to the project. Obviously, no further progress on the project has taken place between then and now on the many unresolved issues raised in the PSA more than two years ago.

By last October 2014, California Resources Corporation told the public there were negotiations going on with HECA about the CO2 and they were not interested in the CO2 and they were not answering their phones from people who wanted to talk about it. In other words, the public was being told that California Resources was not going to take the CO2, but ironically, HECA seems not to have known this and claims that they continued negotiations for
several months after this time. HECA also claims without evidence that maybe
the delay in negotiations was because California Resources wanted the better deal. But obviously California Resources was no longer interested going way back to last October.

Last April, 14 months ago, is when HECA should have asked for a six-month suspension of the project. They didn’t. They just floundered around, not knowing what they wanted to do.

Today, HECA is proposing, after more than a year of their own secret consultations, that in six months from now they will be ready to present a new proposal concerning the products they will manufacture and the ultimate destination of the CO2.

They have implied the CO2 will go directly underground beneath the prime farmland of Kern County and next to the Kern Water base at their own expense.

The problem with the new proposal and in most of the issues identified in the PSA is that there is a whole rash of new issues now to deal with besides all the old ones.

Obviously, the number one issue is that none of HECA’s proposals about changing the project are realistic given current zoning in Kern County.
So the question must be asked, why have almost none of the issues raised in the PSA been addressed comprehensively by HECA over the past two years? Issues such as water use in a worsening drought; disappearance of prime farmland without mitigation; environmental issues in Wasco and surrounding the HECA site; traffic issues raised by the city and chapter and schedule district; waste issues raised by the County of Kern, the greenhouse gas calculation issues raised by the public and the CEC. None of this has been resolved and no progress has been made for more than a year on these issues.

It should be noted as well that the air quality in Kern County for fine particulates has gotten worse the past two winters, worse than at any time previously measured before. So we need to return to the air quality issues, as well, and look at a new baseline.

We strongly urge the Commission to terminate the current proceedings. Ample evidence exists that proper progress has not taken place and the new proposals are incompatible with the current application. Thank you.

HEARING OFFICER RENAUD: All right, thank you.
Are there any other parties who wish to address the committee, and then we’ll see if there are any other members of the public. Any other parties?

MR. CROYLE: Jim Croyle speaking.

HEARING OFFICER RENAUD: All right.

MR. CROYLE: I will say simply so that we don’t drag this out very long that I stand behind everything that I have said and my company has said and everything we’ve submitted to this body, including the last statements that I made.

And we continue to be very much interested in getting this project that’s very beneficial to the global environment done. We are doing everything in our power to move that along.

I want to clarify something just briefly. The DOE did not cut off our funding. The grant is still in place. What they have not done, we asked them to move some Phase 2 money into Phase 1 to complete this phase of the project. They have indicated to me that they’re not willing to do that unless the CO2 issue is resolved.

So there’s been a lot of mischaracterizations at least and we stand by what we have submitted to you over the several months we’ve been doing this.
Okay. One last call. Any other parties wish to address the committee before we turn back to members of the public? Parties.

All right. Members of the public, anyone else wish to make a public comment before we convene to closed session?

MS. GALLON: This is Ann Gallon in Kern County. Can you hear me?

HEARING OFFICER RENAUD: Yes, thank you.

MS. GALLON: Thank you very much. My name is Ann Gallon. I live on the west side of Bakersfield in Kern County where my late husband and I moved to enjoy retirement, but this project to me represents an enormous negative impact on this community.

I know a lot of work has been done by the applicant. The demonstration of carbon capture and sequestration into a space next to LPL’s oil field, but that work wasn’t their money, it was funded by over $100 million of our tax dollars. My tax dollars. That paid for office space, their legal help, an expensive spokesperson lady, and big ticket items like buying air credits and buying water.

And now this applicant wants more time (inaudible) agreement for the greenhouse gas fell through and they apparently never had a plan B.
That’s the motion to terminate because they are working on that but there are other negative impacts that I feel that the applicant is not addressing.

The waste as mentioned by Ms. Douglas. The tremendous amount of waste would put Kern County into noncompliance with California guidelines.

There have been calls by our County for air dry cooling of the gasification towers. Rather, we are not hearing anything from the applicant about that. That water would be much better used for agriculture.

Mr. Frantz touched on the environmental justice. I call it environmental injustice of putting this facility near a farm labor camp, the coal transfer facility, where families live.

Then I haven’t heard anybody mention the environmental damage to the Tulle Elk Preserve that is immediately next-door to this project site, and their letter said there’s no way to mitigate the damage to that.

And I have a personal concern about the potential for disastrous leak or worse in that storage of up to four million gallons of the anhydrous ammonia onsite. And in our hot Kern County summers, this is not a good scenario, and I live within 20 miles of...
what could be a leak or a blast zone.

So I call on the Commission to terminate this application rather than holding our community hostage and California hostage to an ever-changing game plan.

Thank you very much.

HEARING OFFICER RENAUD: Thank you for your comment.

Are there any other members of the public who would like to make a comment at this time?

All right, then hearing none, I think we'll proceed to the next item on the agenda, which is the closed session. The committee members will convene in closed session in deliberate concerning the two pending matters.

At the end of that deliberation, I will return to adjourn the meeting formally and the committee will issue its decision in writing hopefully within two weeks.

Thank you again for your participation and you'll be receiving something in the near future to resolve these two pending matters. Thank you.

(Adjourned to closed session at 3:28 p.m.)

(Resumed open session at 3:46 p.m.)

HEARING OFFICER RENAUD: This is Raul Renaud, the hearing officer for the Hydrogen Energy California
Project, reporting back from closed session. The committee has concluded its deliberations. There is no action to report at this time but the committee will issue its decision in writing in the next two weeks.

Thank you for your participation. This concludes and adjourns the committee conference.

(Adjourned at 3:47 p.m.)

--00-0--
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 30th day of June, 2015.

PETER PETTY
CER**D-493
Notary Public
TRANSCRIBER'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 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.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of June, 2015.

_________________
Terri Harper
Certified Transcriber
AAERT No. CET**D-709