

Memorandum

Date: December 20, 2012

Telephone: (916) 651-8853

File: 08-AFC-08A

To: Commissioner Karen Douglas, Presiding Member
Commissioner Andrew McAllister, Associate Member
Hearing Officer Raoul Renaud

From: California Energy Commission -
1516 Ninth Street
Sacramento, CA 95814-5512

Robert Worl
Robert Worl,
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California Energy Commission

DOCKETED
08-AFC-8A

TN # 68933

DEC. 20 2012

Subject: HYDROGEN ENERGY CALIFORNIA, AMENDED (08-AFC-08A)
STATUS REPORT #3

Per the October 5, 2012 Committee scheduling order and staff's Status Report #2 suggested schedule dated October 26, 2012, staff hereby files Status Report #3 for the Hydrogen Energy California, Amended AFC (HECA). Energy Commission staff and the U.S. Department of Energy (DOE) are jointly conducting the review of the proposed HECA project and intend to issue joint documents at appropriate points in the process. On December 11th, staff for both agencies held an agency conference call discussing project related status updates, revised schedules and other issues detailed below. The bi-monthly conference calls include the U.S. Environmental Protection Agency (U.S. EPA), U.S. Fish and Wildlife Service (U.S. FWS), California Air Resources Board (CARB), California Department of Conservation – Division of Oil Gas and Geothermal Resources (DOGGR) and San Joaquin Valley Air Pollution Control District (SJVAPCD).

This report will briefly summarize the Amended HECA AFC activities since the last status report filed on October 26, 2012, with a focus on the period leading to a Preliminary Staff Assessment/Draft Environmental Impact Statement. Additionally, a proposed revised schedule is included that utilizes information from the applicant, agencies, and other participants to the HECA proceedings, and, based on current information, indicates staff's estimate of the time needed to achieve the associated schedule benchmarks.

Please note that information relating to Intervenor's activities will be covered in their respective Status Reports. Staff does however utilize information from, and responses to, the intervenors' data requests, questions, and comments at workshops, hearings, and comment on published staff documents.

PROCEEDING UPDATE

The Energy Commission staff is continuing to gather information through data responses, responses to workshop questions, and agency discussions.

Procedural Activities and Coordination Efforts to Date:

Staff has submitted three sets of formal data requests, and the applicant is also responding to workshop questions based on workshops held on September 27, 2012, in Sacramento, and a second workshop held in Bakersfield on November 7, 2012.

Data Request Set 1 was filed on July 20, 2012, Set 2 was filed on September 6, 2012, and Set 3 was filed on November 2, 2012. In each instance the applicant has either requested additional time to respond or objected to certain data requests.

The applicant filed data responses for Set 1 on August 22, 2012, September 18 and 21, 2012, in which all were partial responses. Additional Set 1 responses were submitted in October and November, 2012, with remaining responses anticipated in January, 2013.

On September 26, 2012, and October 11, 2012, the applicant responded to Data Request Set 2 with objections to certain requests and requested 30 additional days to respond to certain request in air quality, biological resources, cultural resources, hazardous materials management, soil and water resources, visual resources, traffic and transportation, socioeconomics, greenhouse gases, visual resources, and waste management.

On November 20, 2012, the applicant responded to Data Request Set 3 with objections and requested additional time to respond. The applicant requested up to an additional 45 days to respond to cultural resources, noise, alternatives and land use data requests.

On December 3, 2012, the applicant submitted several data responses to cultural resources, visual resources and waste management while at the same time requesting time extensions to respond to several data requests for cultural resources, noise, alternatives and land use.

A data response workshop was conducted on November 7, 2012, in Bakersfield, California. This workshop discussed the information recently provided by Occidental Petroleum, Elk Hills, (OEHI) to data requests 1 through 7, issued on March 16, 2012. These requests were issued jointly by Energy Commission staff and the DOGGR through HECA. The requests related to the potential plans for use of carbon dioxide (CO₂) in the OEHI enhanced oil recovery program (EOR) at the Elk Hills oil field. An evening session was held at the November 7th workshop to provide the interested

public an opportunity to ask questions of parties and provide comments on the proposed project.

OEHI has been assisting HECA with information responding to data requests that are related to the OEHI EOR and the potential for CO₂ storage/sequestration resulting from the EOR program. This in part accounts for delays in HECA providing complete data responses.

Staff anticipates receiving the remaining data responses for Set 1, Set 2, Set 3 and additional workshop questions by mid-January 2013.

Additionally, staff continues discussions with HECA regarding proposed water availability and possible alternative configurations of the water supply plan.

Coordination with Federal and State Agencies:

Staff continues to discuss the status of the HECA project with several state and federal agencies during bi-monthly coordinated conference calls with the Department of Energy, U.S. EPA, DOC DOGGR, CARB, U.S. FWS and SJVAPCD. The conference call on December 11, 2012 discussed the schedule for the SJVAPCD (Air District) to complete the Preliminary Determination of Compliance (PDOC), and the expected data responses from HECA related to the OEHI enhanced oil recovery project. The status of the Federal Biological Assessment was discussed, and indications are that this will be complete soon, and forwarded to the Fish and Wildlife Service by DOE. These agency coordination calls will become monthly beginning January 22, 2013.

Tribal Coordination:

The Energy Commission staff and U.S. Department of Energy continue to coordinate meetings with Native American tribal representatives.

U. S. Environmental Protection Agency:

The U.S. EPA final approval of the California State Implementation Plan to transfer the Prevention of Significant Deterioration (PSD) authority from U.S. EPA to the SJVAPCD took place effectively on November 26, 2012. The SJVAPCD PDOC for HECA will include the recently delegated PSD authority so there will be no separate U.S. EPA air quality permits needed.

It is anticipated that as many as 1,000 permit conditions may be associated with the GHG/CO₂ PSD permitting requirements. Staff is currently investigating ways to address the Air Districts conditions in the PSA/DEIS.

California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR):

Data responses were provided by HECA and Occidental Petroleum-Elk Hills, Incorporated, (OEHI) on October 15, 2012. In addition, a drilling application was submitted to DOGGR by OEHI on October 5, 2012, covering the first phase – up to 25 wells – of the enhanced oil recovery (EOR) program intended to utilize HECA's CO₂. DOGGR stated they are reviewing the information provided. Energy Commission staff and DOGGR staff are in discussions regarding the development of the analysis of the EOR project and the subsequent mitigation and monitoring to be required for accounting for the CO₂ storage/sequestration resulting from the EOR process. It remains unclear to what extent DOGGR's permitting process will track the Energy Commission's timeframe for processing the HECA permit.

Kern County:

Kern County Planning and Community Development Department and the Energy Commission staff continue to discuss the county's information needs in regard to the HECA and the Elk Hills Oil Field. The county and the applicant are actively engaged in information exchange. The County Planning and Community Development Department intends to bring the proposed County conditions of approvals and mitigation measures for the proposed project (Kern County's process for conditional use permits for power plants) to the County Board of Supervisors by mid-January 2013. If the County Board of Supervisors approves the recommendations, County staff then will forward those comments and recommended conditions to both HECA and the Energy Commission staff for consideration.

Schedule:

The schedule for HECA continues to be dynamic, and staff expects the publication of the PDOC will occur by January 16, 2013, and staff will require additional time from that date to complete the Preliminary Staff Assessment/Draft Environmental Impact Statement. Staff coordination with Kern County and DOGGR will continue based on need and the submission of information from HECA and from OEHI. The suggested schedule adjustments that follow are based upon best available information from all participants to the HECA project evaluation.

STAFF SUGGESTED SCHEDULE BASED ON CURRENT INFORMATION:

	ACTIVITY	Calendar Day
1	Applicant files Data Responses Set 1 (partial)	08-22-12
2	Applicant files Data Responses Set 1 (partial)	09-18-12
3	Applicant files Data Responses Set 1 (partial)	09-21-12
4	Applicant files Data Responses Set 1 (partial)	10-22-12
5	Data Requests Set 2: A124 – A180 filed	09-06-12
6	Applicant files Data Responses Set 2 (partial)	09-26-12
7	Data response workshop #2; was held in Sacramento	09-27-12
8	Applicant files Data Responses Set 2 (partial)	10-11-12
9	Staff files Status Report #2	10-25-12
10	Staff filed data requests Set 3: A181 – A217	11-02-12
11	Data Response Workshop #3 was held in Bakersfield	11-07-12
12	Applicant files Data Responses Set 2 (partial)	11-13-12
13	Applicant files Data Responses Set 3 (partial) with a request for a 45-day extension for some DRs	11-20-12
14	Staff files Status Report #3	12-19-12
15	Applicant expected to file responses to data request Set 3-45 day extension requested on 11/20/2012	01-07-13
16	SJVAPCD issues Preliminary Determination of Compliance	01-18-13
17	Staff files Status Report #4	02-18-13
18	Preliminary Staff Assessment/Draft Environmental Impact Statement filed**	03-15-13
19	SJVAPCD issues Final Determination of Compliance (FDOC)	03-18-13
20	Preliminary Staff Assessment workshop to be held in Buttonwillow	04-15-13
21	Staff files Status Report #5	05-17-13
22	Comments on PSA/DEIS are due (45 days due to NEPA regs)	05-03-13
23	Final Staff Assessment/Final EIS filed	06-04-13
24	Comments on FSA/FEIS are due (45 days due to NEPA regs)	07-19-13
25	Prehearing Conference*	TBD
26	Evidentiary hearings*	TBD
27	Committee files Presiding Member's Proposed Decision*	TBD
28	Hearing on the PMPD*	TBD
29	Commission issues final Decision*	TBD
*Items 25 thru 29 will be scheduled by the Committee		



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
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**AMENDED APPLICATION FOR CERTIFICATION FOR THE
HYDROGEN ENERGY CALIFORNIA PROJECT**

Docket No. 08-AFC-08A
(Revised 11/20/12)

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DECLARATION OF SERVICE

I, Diane L. Scott, declare that on December 20, 2012, I served and filed a copy of the attached **HYDROGEN ENERGY CALIFORNIA, AMENDED (08-AFC-08A) STATUS REPORT #3**, dated December 20, 2012. This document is accompanied by the most recent Proof of Service list, located on the web page for this project at: http://www.energy.ca.gov/sitingcases/hydrogen_energy/index.html

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

(Check all that Apply)

For service to all other parties:

- X Served electronically to all e-mail addresses on the Proof of Service list;
- Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses marked "hard copy required" or where no e-mail address is provided.

AND

For filing with the Docket Unit at the Energy Commission:

- X by sending one electronic copy to the e-mail address below (preferred method); **OR**
- by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

CALIFORNIA ENERGY COMMISSION – DOCKET UNIT
Attn: Docket No. 08-AFC-08A
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.ca.gov

OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:

- Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel¹ at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission
Michael J. Levy, Chief Counsel
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.



Diane L. Scott, *Project Assistant*
Siting, Transmission and Environmental Protection Division

¹ This Proof of Service form is not appropriate for the use when filing a document with the Chief Counsel under Title 20, sections 1231 (Complaint and Request for Investigation) or 2506 (Petition for Inspection or Copying of Confidential Records). The Public Advisor can answer any questions related to filing under these sections.