

**From:** Jacquelyn Kitchen [<mailto:KitchenJ@co.kern.ca.us>]  
**Sent:** Tuesday, March 05, 2013 1:14 PM  
**To:** Heiser, John@Energy; Worl, Robert@Energy  
**Cc:** Lorelei H. Oviatt; Craig Murphy  
**Subject:** RE: Kern County BOS - HECA mitigation measures document

California Energy Commission

**DOCKETED**

**08-AFC-8A**

TN # 69811

MAR. 05 2013

Good Afternoon Robert and John,

Please find attached a letter in response to the HECA applicant's recent March 4th filing to the CEC regarding the Committee's Revised Scheduling Order (TN #69783). The attached letter is directly from the Planning Department and a copy has been mailed to the Presiding Commissioners. We request that you docket this letter as appropriate.

Please note that the attached comments are separate from the forthcoming comments from Kern County regarding the recommended mitigation measures for the HECA Project. We anticipate mailing those comments under separate cover, later this week.

Please do not hesitate to contact me or Lorelei if you have any questions.

Thank you,  
Jacqui Kitchen

**Jacquelyn R.Kitchen**

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DEVELOPMENT DEPARTMENT**

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**DEVELOPMENT SERVICES AGENCY**

Planning and Community Development  
Engineering, Surveying and Permit Services  
Roads Department

March 5, 2013

FILE: Hydrogen Energy Plant

California Energy Commission  
Energy Resources Conservation and Development Commission  
1516 Ninth Street MS-15  
Sacramento, California 95814

**RE: Kern County Objections to Applicant's Response to Staff's Request to Modify  
Schedule**

Dear Presiding Commissioners,

The Kern County Planning and Community Development Department takes grave exception to the applicant's filed response to staff's request to modify schedule ( TN# 69783 – March 4, 2013). The applicant's lawyer states they are deeply concerned with the California Energy Commission staff request for an additional six weeks for the schedule. The lawyer, on behalf of the applicant continues by chastening staff for "rather than making progress on the \PSA/DEIS, since the Status Conference, the staff has fallen further behind".

In fact, it is the applicant and their consultants who have failed to provide the necessary information on fundamental matters on this project, such as basic traffic information, that would enable the county to respond to the very appropriate requests of California Energy Commission staff for mitigation measures. A response that was promised by the President, Mark Lerdal, in a meeting on February 14, 2013 to me personally. As recently as February 26, 2013, the day of the hearing for this project in front of the Board of Supervisors, a conference call between the Kern County Roads department and the applicant's consultant failed to produce the necessary information and we are still waiting for the response they promised. The PSA/DEIS cannot be completed without this necessary information which is under the control of the applicant.

Kern County requests that you reject the limitations proposed by the applicantas inappropriate given the applicant's failure to be responsive and grant the California Energy Commission staff's request for an additional six weeks and any other extensions necessitated by the lack of responsiveness of the applicant for this project.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lorelei', with a long horizontal flourish extending to the right.

Lorelei H. Oviatt, AICP  
Director

cc: Kern County Board of Supervisors  
CAO  
County Counsel  
Kern County Roads Department  
Grand Jury

Michael J. Carroll  
Marc T. Campopiano  
LATHAM & WATKINS LLP  
650 Town Center Drive, Suite 2000  
Costa Mesa, CA 92626  
(714) 540-1235

California Energy Commission

**DOCKETED**  
**08-AFC-8A**

TN # 69783

MAR 04 2013

STATE OF CALIFORNIA  
ENERGY RESOURCES  
CONSERVATION AND DEVELOPMENT COMMISSION

IN THE MATTER OF:	)	DOCKET NO. 08-AFC-08A
	)	
APPLICATION FOR CERTIFICATION,	)	APPLICANT'S RESPONSE TO STAFF'S
FOR THE HYDROGEN ENERGY	)	REQUEST TO MODIFY SCHEDULE
CALIFORNIA PROJECT BY HYDROGEN	)	
ENERGY CALIFORNIA LLC	)	
	)	

Applicant is deeply concerned about California Energy Commission staff's request to delay the Project schedule by an additional six weeks relative to the schedule established by the Committee just four weeks ago. The Committee's Revised Scheduling Order issued January 30, 2013 was based on input received by the Committee at the January 16, 2013 Status Conference. At that time, staff indicated that it did not anticipate any problem issuing a Preliminary Staff Assessment/Draft Environmental Impact Statement (PSA/DEIS) by March 31, 2013. It appears that rather than making progress on the PSA/DEIS since the Status Conference, the staff has fallen even further behind.

If the Committee is inclined to grant staff additional time to complete the PSA/DEIS, although Applicant would not object, Applicant respectfully requests that any extension be conditioned as follows:

1. No further extensions of the deadline for the PSA/DEIS will be granted;
2. The PSA/DEIS must be complete in all respects with no significant gaps in staff's analysis of the Project;
3. Staff provides a written status update two weeks after the Committee grants staff's request; and
4. A status conference before the Committee should be scheduled three to four weeks prior to the revised PSA/DEIS due date to ensure that staff is making adequate progress.

DATED: March 4, 2013

Respectfully submitted,

*/s/ Michael Carroll*

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Michael Carroll  
LATHAM & WATKINS LLP  
Counsel to Applicant