

DOCKETED

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Memorandum

Date: August 23, 2013
Telephone: (916) 651-8853
File: 08-AFC-8A

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

From: California Energy Commission - John Heiser, AICP,
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Subject: HYDROGEN ENERGY CALIFORNIA, AMENDED (08-AFC-8A)
STAFF STATUS REPORT NUMBER 9

On August 9, 2013 the Committee assigned to the Hydrogen Energy California (HECA) Amended AFC proceeding requested all parties file Status Reports by August 23, 2013. Energy Commission staff hereby files Status Report # 9 in response to the Committee's request.

On June 28, 2013, Energy Commission staff and the US Department of Energy (DOE) completed a Preliminary Staff Assessment/Draft Environmental Impact Report (PSA/DEIS). In the PSA/DEIS staff identified significant and unresolved issues requiring additional data from the Applicant in order for staff to assess project impacts and develop appropriate mitigation and for the public to understand the impacts of the project.

A majority of the data responses from the applicant are anticipated to be docketed by the end of August 2013 and the remaining data responses to be submitted prior to the publication of the joint FSA/FEIS document.

DOE published in the Federal Register on July 19th, 2013, the Notice of Availability – starting the 45 day public comment period on the DEIS, which was extended to accommodate the September workshops. The DEIS public comment period ends October 1, 2013. DOE will consider comments submitted after this date to the extent practicable.

Joint Energy Commission and DOE public workshops on the PSA/DEIS, along with a Committee Status Conference, are scheduled for September 17 through the 19th, 2013 in Buttonwillow California.

A second set of public workshops are tentatively scheduled in late October to mid-November 2013, on behalf of a request from Kern County Board of Supervisor, District 4, and HECA Neighbors (Intervenor). The request is to delay the September workshops to accommodate the farmers attending late summer harvest season and ability to provide

public comments and to voice their concerns to the assigned Committee members. The additional public comments received at the second set of workshops will be helpful, but may result in the proposed FSA/FEIS to be published in December.

Given the requirement for additional project-related information, the schedule for the publication of the FSA/FEIS will need to be revised. The requested schedule adjustment will also allow staff to hold public workshops and receive agency, intervenor and public comments on the PSA/DEIS. The additional time will allow staff to review, consider, and respond to a high volume of public and agency comments on the PSA/DEIS and from the workshops. The attached suggested schedule proposes a mid-December publication date for the Final Staff Assessment/Final Environmental Impact Statement (FSA/FEIS) if the requested data is provided, and unresolved issues are addressed, in a timely manner.

Coordination with Federal, State, and Local Agencies:

Staff continues to conduct monthly multi-agency coordination calls regarding HECA. These calls provide information regarding schedule and an opportunity to seek input from participating agencies regarding progress on key elements. In addition, staff conducts weekly calls with DOE.

Biological Resource Agencies: The U.S. Fish and Wildlife Service (USFWS) has provided DOE and the applicant with comments on the Biological Assessment (BA). As noted previously, the USFWS has indicated that they would be issuing one Biological Opinion (BO) for the entire HECA project, including the power plant, linear facilities, and impacts associated with the proposed enhanced oil recovery project on the Occidental Elk Hills oil field. August 7, 2013 was the targeted date for the Biological Opinion. However, USFWS requested a 45-day time extension from DOE for the BO. DOE extended the BO to September 20, 2013.

California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR) Staff understands that an application for drilling permits associated with the proposed enhanced oil recovery program, utilizing the CO₂ that would be acquired from HECA, has been filed with DOGGR and is currently being reviewed for adequacy. Staff will continue close coordination with DOGGR to monitor progress on the permit application and will continue discussions with DOGGR and Occidental Petroleum Elk Hills to obtain any pertinent information needed for staff's analysis. Because the underground disposal of the facility's CO₂ is an essential element of the overall project, critical information regarding the Elk Hills field is necessary for staff and the public to assess project impacts and mitigation. While DOGGR may be issuing drilling permits (Class II), CO₂ disposal is part of the project the Commission is reviewing. Therefore, inadequate oil field well information may result in additional delay. DOGGR has reviewed the permit application sent by Occidental of Elk Hills, Inc., this past October 2012. DOGGR issued Data Requests to Occidental of Elk Hills regarding the permit application on April 29, 2013. DOGGR is awaiting Data Responses.

Sierra Club docketed on 08/09/13, comments on a news article related to "Risks of Well Blowouts from EOR operations." Sierra Club is requesting both Energy

Commission and DOGGR to ensure that OEHI conducts a thorough inspection of plugged and abandoned wells associated with the CO₂ EOR Class II injection well operations. Sierra Club raises the issues of potentially escaping CO₂ from leaking OEHI wells, settling in low lying areas of Elk Hills that may endanger flora and fauna. Resolution of this issue has the potential to delay the project permitting.

The California Air Resources Board (ARB) has not finalized regulations for geologic sequestration under the cap and trade program. If a methodology is not in place once the project is operational, it would have to purchase allowances or offsets for all CO₂ that HECA would sequester in addition to the direct CO₂ emissions. Once the methodology is in place, the project would still be required to purchase allowances for the CO₂ it is unable to sequester. This issue could impact economic feasibility of the project.

Kern County: The Kern County Planning and Community Development Department, Fire, Environmental Health Services, Engineering and Survey Services, Waste Management, and County Roads Departments have requested additional information from the applicant and have recommended an amount and terms of impact mitigation measures, conditions, and payments related to HECA. Additionally, Kern County has submitted formal comments on the proposed project, which staff will address in the FSA/FEIS.

The San Joaquin Valley Air Pollution Control District (SJVAPCD): The Final Determination of Compliance (FDOC) was issued on July 8, 2013, and docketed with the Energy Commission on July 16, 2013.

Energy Commission staff have requested SJVAPCD to review and approve Energy Commission staff's proposed revisions to the FDOC Conditions and Permit Unit Description for incorporation into the Energy Commission's Final Staff Assessment/Final Environmental Impact Statement. Coordination efforts between Energy Commission staff and SJVAPCD FDOC revisions will be necessary, but result in the proposed December publication of the FSA/FEIS.

Buena Vista Water Storage District (BVWSD): Energy Commission staff has received data responses and comments on the PSA/DEIS from BVWSD recently. BVWSD has requested to meet with Energy Commission staff prior to the September workshops to discuss the data responses and PSA/DEIS comments. Staff will work with BVWSD to arrange such a meeting.

STAFF SUGGESTED SCHEDULE BASED ON CURRENT INFORMATION:

	ACTIVITY	Calendar Day
Items 1-28	These items have been completed and are listed in the previous status reports.	
29	SJVAPCD issues Final Determination of Compliance (FDOC)	07-08-13
30	PSA/DEIS workshop and Public Committee Conference to be held in Buttonwillow	09-17 thru 19-13
31	USFWS Biological Opinion due on 08-07-13 (45-day extension)	09-20-13
32	Comments to DOE on PSA/DEIS are due (45 days) from publication date (time extension to 10/1/13)	10-01-13
33	Continuation of PSA/DEIS Public Workshops, Kern County: Date is tentative	10-30-13 or 11-12-13
34	Final Staff Assessment/Final EIS to be filed	12-15-13
35	Prehearing Conference*	TBD
36	Evidentiary hearings*	TBD
37	Committee files Presiding Member's Proposed Decision*	TBD
38	Hearing on the PMPD*	TBD
39	Commission issues Final Decision*	TBD
*Items 35 thru 39 will be scheduled by the Committee		