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Memorandum

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

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Subject: HYDROGEN ENERGY CALIFORNIA, AMENDED (08-AFC-8A)
STAFF STATUS REPORT NUMBER 10

On September 23, 2013, the Committee assigned to the Hydrogen Energy California (HECA) Amended AFC proceeding requested all parties file Status Reports by September 30, 2013. Energy Commission staff hereby files Status Report # 10 in response to the Committee's request.

On June 28, 2013, Energy Commission staff and the US Department of Energy (DOE) published a Preliminary Staff Assessment/Draft Environmental Impact Statement (PSA/DEIS). Staff identified significant and unresolved issues in the PSA/DEIS, requiring additional data from the applicant in order for staff to complete its final assessment of project impacts and, where feasible, develop appropriate mitigation measures. The applicant has submitted two sets of data responses in regards to the requested information identified by staff in the PSA/DEIS, and the applicant has indicated that additional information will be submitted by the end of October.

On September 17 through 19, 2013, Energy Commission staff and the DOE held workshops in Buttonwillow, California on the PSA/DEIS to receive public comment and work to resolve outstanding issues with the applicant. Intervenors HECA Neighbors, Association of Irrigated Residents, and Sierra Club were active in these workshops, and there was high attendance from members of the public, especially during DOE's evening public comment sessions.

DOE published in the Federal Register on July 19, 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 ended October 1, 2013. DOE will consider comments submitted after this date to the extent practicable.

In response to requests from the Kern County Board of Supervisors, and HECA Neighbors (Intervenor), staff proposes to hold a second round of PSA/DEIS public workshops in Kern

County, California tentatively scheduled in November, with a portion of that time available to accommodate a Committee Status Conference.

Over 100 comment submittals from the public, intervenors, agencies and others have been received on the PSA/DEIS to date. However, agency comments from the United States Environmental Protection Agency (US EPA) Region 9 and the United States Fish and Wildlife Service (US FWS) Biological Opinion will be docketed after the federal furloughs are lifted. Duration of the federal furlough is unknown at this time according to news sources. During the September workshops, significant discussions between intervenors, staff, applicant, and the public took place indicating that unresolved issues remain regarding HECA, due to its design complexities, water resource usage, coal and petcoke transportation issues, biological impacts, Greenhouse Gases, CO₂ sequestration and power plant efficiencies and reliability factors. Public comments received during the September workshops for DOE NEPA purposes including transcripts, will be docketed after the federal furlough is lifted. These public comments will be incorporated and addressed in the FSA/FEIS.

Based on the information requests in the PSA/DEIS and the recent submitted PSA/DEIS informational responses received from the applicant, staff anticipated working towards an FSA/FEIS in December. However, additional informational requests from Energy Commission staff at the September workshops were presented. The applicant is preparing responses to the September workshop data requests and will be docketing this information by the end of October. With the uncertainty of the federal furlough ending, remaining agency comments and the additional information requests and responses, it is not at all certain that such a goal of publishing an FSA/FEIS in December is feasible. Furthermore, significant pieces of information remain outstanding and are briefly listed below.

- Occidental Elk Hills, Inc., (OEHI's) application for a Class II permit to California Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR) has not yet been determined to be complete.
- Occidental Elk Hills, Inc., Monitoring, Reporting and Verification Plan (OEHI's MRVP) needs significantly more detail and staff needs more information about how the Energy Commission or DOGGR will ultimately be able to enforce OEHI compliance.
- Carbon Dioxide (CO₂) sequestration jurisdictional and permitting requirements still need to be resolved. DOGGR has jurisdiction over Class II injection wells and Class VI is under jurisdiction of US EPA. However, according to preliminary discussions, DOGGR will include some Class VI requirements in the Class II well permits and has indicated that the bonding requirements for CO₂ sequestration are not up to par for Class VI wells.
- Survey information for biological and cultural resources in the Elk Hills oil field.
- Receipt of US Environmental Protection Agency comments on the PSA/DEIS and CO₂ sequestration permitting regulations. On hold until the end of the federal furlough.
- Kern County still needs to act on a Williamson Act Cancellation request.
- Impacts resulting from increased use of the Coal Transfer Facility in Wasco need further evaluation.

- Impacts of additional truck traffic to school bus routes needs further evaluation.
- The Phase I California Independent System Operator (CAISO) transmission system engineering study for Cluster 6, of which HECA is now a part, will not be available until December.
- Receipt of US Fish and Wildlife Biological Opinion is on hold until the end of the federal furlough.

Additionally, staff needs to analyze the components of the project over which the Energy Commission does not have jurisdiction, all of which require interagency coordination; they include enhanced oil recovery, CO₂ sequestration and monitoring, CO₂ pipeline encroachment permit under the California Aqueduct, rail road crossings and county road improvements. The proper project information must be in hand in order to allow for such coordination to be productive and effective. The FSA/FEIS will also serve as the environmental documentation for these requested permits with the various agencies. Therefore, while staff last month was recommending a December date for the FSA/FEIS if all project information was provided in a timely manner, the workshops have made clear that all necessary project information will not be provided in time, and the scope and number of public comments received to date will require additional time to analyze and respond to in the FSA/FEIS. After the November workshops, staff will have a better understanding of when it will be able to publish the FSA/FEIS.