

DOCKETED

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Document Title:	CEC Request Response from Kern County in Regards to HECA/OEHI Applicant's Proposed Edits to SOCIO-1
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From: Worrall, Lisa@Energy

Sent: Thursday, October 10, 2013 9:58 AM

To: 'Jacquelyn Kitchen'

Cc: Lorelei H. Oviatt; DeCarlo, Lisa@Energy; Stennick, Amanda@Energy; Heiser, John@Energy

Subject: Request response on the HECA/OEHI applicant's proposed edits to SOCIO-1

Good morning Jacquelyn,

The Energy Commission received the applicant's comments on the HECA PSA/DEIS this week. The applicant has proposed edits to the staff-proposed Condition of Certification SOCIO-1 and I wanted to forward these proposed edits to you and Lorelei for your review and to make sure Kern County is in consensus on the condition language. Please let me know if the county agrees with the applicant's proposed edits or if the county wants additional edits

I have attached a pdf of the applicant's proposed edits to SOCIO-1 and look forward to Kern County's response to the applicant's proposed edits to SOCIO-1. As the local agency, your feedback is important.

Thanks,

Lisa Worrall

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Topic Area/COC	CEC Staff's PSA/DEIS COC	Applicant's Proposed Changes to COC
PUBLIC HEALTH-3	<p>PUBLIC HEALTH-3 Not later than sixty (60) days after the submittal to the CPM of the results of any source test and any human health risk assessment prepared using those source test results that shows the risks to be greater than 10 in one million or a Hazard Index of greater than 1.0, the project owner shall submit plans to address this matter by either submitting a protocol for a more refined health risk assessment or plans for the reduction in the emissions of certain TACs to the SJVAPCD for review and comment and to the CPM for review and approval.</p> <p>The project owner shall repeat this after every source test and HRA preparation.</p> <p>Verification: Not later than sixty (60) days after any source test and preparation of a HRA, the project owner shall provide a letter to the CPM stating whether or not the HRA results show the risks to be greater than 10 in one million and the Hazard Index to be less than 1.0. If either threshold is exceeded, the project owner shall submit plans to address this matter by either submitting a protocol for a more refined health risk assessment or plans for the reduction in the emissions of certain TACs to the SJVAPCD for review and comment and to the CPM for review and approval.</p>	<p>HECA requests clarification that this COC is only required if an HRA has been conducted and results are greater than 10 in one million cancer risk or a Hazard Index of greater than 1.0.</p> <p>Applicant proposes the following changes:</p> <p>PUBLIC HEALTH-3 Not later than sixty (60) days after the submittal to the CPM of If the results of any source test and any human health risk assessment prepared using the those source test results that shows the risks to be greater than 10 in one million or a Hazard Index of greater than 1.0, the project owner shall submit plans <u>within sixty (60) days after HRA submittal to the CPM</u> to address this matter by either submitting a protocol for a more refined health risk assessment or plans for the reduction in the emissions of certain TACs to the SJVAPCD for review and comment and to the CPM for review and approval.</p> <p>The project owner shall repeat this after every source test and HRA preparation.</p> <p>Verification: Not later than sixty (60) days after any source test and submittal preparation of a HRA, the project owner shall provide a letter to the CPM stating whether or not the HRA results show the risks to be greater than 10 in one million and the Hazard Index to be less than 1.0. If either threshold is exceeded, the project owner shall submit plans to address this matter by either submitting a protocol for a more refined health risk assessment or plans for the reduction in the emissions of certain TACs to the SJVAPCD for review and comment and to the CPM for review and approval.</p>
Socioeconomics		
SOCIO-1	<p>PROPOSED CONDITIONS OF CERTIFICATION</p> <p>SOCIO-1 The project owner shall use best efforts to ensure as much sales and use tax revenue resulting from project construction and operation is attributed to Kern County. The project owner shall do the following:</p> <ol style="list-style-type: none"> 1. Make a good-faith effort to have all transactions that will generate sales and use taxes, including transactions of project owner's contractors, occur in the unincorporated area of the county; 2. Encourage the contractors to establish a business location and tax resale account, and take other reasonable steps, to maximize receipt of sales and use tax revenues for the county; 3. Include in a master contract and any other contract for construction, language ensuring that the county will receive the benefit of any sales and use tax generated by the project to the fullest extent permitted by law; 4. Include the following provision from California Board of Equalization, Regulation 1806(b), in all construction contracts: <i>The jobsite is regarded as a place of business of a construction contractor or subcontractor and is the place of sale of "fixtures" furnished and installed by contractors or subcontractors. The place of use of "materials" is the jobsite.</i> 	<p>Applicant proposes the following changes to this COC:</p> <p>The project owner shall use best efforts to ensure that, to the extent any as much sales and use tax revenue resulting from <u>is payable based on purchases by the project owner relating to project construction and operation, such tax</u> is attributed to Kern County. <u>To ensure this, t</u>The project owner shall <u>adhere to</u> do the following:</p> <ol style="list-style-type: none"> 1. Make a good faith effort to have all transactions that will generate sales and use taxes, including transactions of project owner's contractors, occur in the unincorporated area of the county; <u>Prior to the issuance of the first grading or building permit for the project, the Project Proponent shall apply for a local street address within the unincorporated portion of Kern County, and on receipt shall register this address with the State Board of Equalization. If permitted by applicable law and the terms of any applicable contract, the project owner shall direct its contractor to use such address for all activities related to the acquisition of construction materials and for all construction-related purchase and billing purposes associated with the project. The project owner shall allow the County to use this sales tax information publicly for reporting purposes.</u> 2. Encourage the contractors to establish a business location and tax resale

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	<p><i>Accordingly, if the jobsite is in a county having a state administrated local tax, the sales tax applies to the sale of the fixtures, and the use tax applies to the use of the materials unless purchased in a county having a state-administrated local tax and not purchased under a resale certificate.</i></p> <p>5. In all agreements related to the project, identify the jobsite as the project address, which is located within the unincorporated area of Kern County</p> <p>6. If the project owner enters into a joint venture or other relationship with a contractor, supplier, or designer, the project owner shall either establish a buying company within Kern County under the terms and conditions of Board of Equalization Regulation 1699(h), to take possession of any goods on which sales and use taxes are applicable but are not defined by Regulation 1806 and shall include in it their requests for bids, procurement contracts, bid documents, and any other agreement whereby California Sales and Use Taxes may be incurred, that the sale occurs at that place of business in the unincorporated area of Kern County; or, alternatively, any entity that may sell goods on which sales taxes are applicable may establish its own place of business within the unincorporated area of Kern County where delivery is ultimately made to the project owner; principle negotiations for all such sales shall be carried on in Kern County;</p> <p>7. Provide notice to all out-of-state suppliers of goods and equipment, no matter where originating, that Kern County is the jurisdiction where the first functional use of the property is made.</p> <p>Verification: At least 30 days prior to the start of any project-related preconstruction site mobilization, the project owner shall provide to the CPM (for review and approval, and to Kern County for review and comment), a signed and notarized statement from someone authorized to sign on behalf of the company, with language acceptable to the company and the CPM specifying the terms related to sales and use taxes</p>	<p>account, and take other reasonable steps, to maximize receipt of sales and use tax revenues for the county.<u>The project owner shall continuously comply with the following during construction and operation:</u></p> <p>3.<u>3.</u>Include in a master contract and any other contract for construction, language ensuring that the county will receive the benefit of any sales and use tax generated by the project to the fullest extent permitted by law.<u>Make commercially reasonable efforts to include in a master contract and any other contract for construction, language intended to ensure that the county will receive the benefit of any sales and use tax generated by the project to the fullest extent permitted by law;</u></p> <p>4.<u>4.</u>Include the following provision from California Board of Equalization, Regulation 1806(b), in all construction contracts to which project owner is a party:</p> <p><i>The jobsite is regarded as a place of business of a construction contractor or subcontractor and is the place of sale of "fixtures" furnished and installed by contractors or subcontractors. The place of use of "materials" is the jobsite. Accordingly, if the jobsite is in a county having a state administrated local tax, the sales tax applies to the sale of the fixtures, and the use tax applies to the use of the materials unless purchased in a county having a state-administrated local tax and not purchased under a resale certificate.</i></p> <p>5.<u>5.</u>In all agreements related to the project, identify the jobsite as the project address, which is located within the unincorporated area of Kern County</p> <p>6.<u>6.</u>If the project owner enters into a joint venture or other relationship with a contractor, supplier, or designer, the project owner shall either establish a buying company within Kern County under the terms and conditions of Board of Equalization Regulation 1699(h), to take possession of any goods on which sales and use taxes are applicable but are not defined by Regulation 1806 and shall include in it their requests for bids, procurement contracts, bid documents, and any other agreement whereby California Sales and Use Taxes may be incurred, that the sale occurs at that place of business in the unincorporated area of Kern County; or, alternatively, any entity that may sell goods on which sales taxes are applicable may establish its own place of business within the unincorporated area of Kern County where delivery is ultimately made to the project owner; principle negotiations for all such sales shall be carried on in Kern County;</p> <p>7.<u>7.</u>Provide notice to all out-of-state suppliers of goods and equipment, no matter where originating, that Kern County is the jurisdiction where the first functional use of the property is made.</p>