



January 8, 2010

Maha Mahasenani
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1 World Trade Center, Suite 1600
Long Beach, CA 90831-1600

DOCKET	
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DATE	JAN 08 2010
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Dear Maha,

I understand that an issue has arisen regarding the appropriate agency to regulate the use of the carbon dioxide (CO₂) from the HECA project for EOR and sequestration. Specifically, the California Department of Conservation's Division of Oil, Gas, and Geothermal Resources (DOGGR) is uncertain as to whether it has legal authority to allow Occidental Petroleum (Oxy) to use the CO₂ from the proposed HECA project for "permanently sequestering carbon," which in turn raises questions as to how the project would demonstrate compliance with California Law concerning greenhouse gas emissions. As we both know, Oxy will use the CO₂ for well stimulation in an EOR application in the Elk Hills.

To date, all DOE-funded Carbon Capture and Sequestration projects that involve EOR and have already been permitted have done so as EPA Class II wells. All of those projects were DOE Regional Partnership Phase I or II projects, which (as with all DOE funded CCS projects) required additional Monitoring, Validation and Accounting (MVA) of the disposition of the CO₂ as part of the requirements of the Cooperative Agreements with the DOE.

The permitting process that the California Energy Commission (CEC) and DOGGR must go through is a well delineated 17 month process which ends in the CEC issuing a permit. The process is now on hold pending resolution of this issue with the first Data Response and Issues Resolution Workshop having been postponed for the second time. This "first" workshop was already rescheduled for January 19th. It has now been postponed indefinitely due to the issue of DOGGR's authority.

Based on my discussions with HECA, the CEC's processes (and these delays) are not yet impacting the project schedule at this time, although there is only approximately one month of additional time left before schedule impacts occur. However, this issue is raising perceptions of significant risk as to the project's feasibility with its supporters.

The timely permitting and development of the HECA Project are critically important to the DOE, because funding appropriated under the American Recovery and Reinvestment Act (ARRA) must be expended by September 2015. The current project schedule offers virtually no cushion regarding expenditure of ARRA funding by that date. Therefore, should overall project delays be incurred due to permitting delays, DOE project funding from the ARRA could be jeopardized.

Also, DOE is also planning to coordinate its National Environmental Policy Act (NEPA) review with the licensing process being conducted by the California Energy Commission to avoid duplication and schedule delays. The Record of Decision (ROD) is required prior to initiation of any construction activities and therefore must be completed prior to initiation of Phase II activities in January 2012.

In summary, the permitting schedule is closely linked and important to the project timeline and our funding support. I hope that HECA can work with the California State agencies to facilitate the diligent processing of HECA's Application for Certification. Please provide DOE with an

updated schedule (should schedule impact be incurred) and a plan for resolving the permitting issue by January 20, 2010 Please let me know if DOE can provide any assistance in resolving this issue

Sincerely,

A handwritten signature in black ink, appearing to read "Michael H. McMillian", followed by a horizontal line.

Michael H. McMillian
DOE Project Manager
National Energy Technology Laboratory