

DOCKET

08-AFC-8

DATE MAY 14 2010

RECD. MAY 14 2010

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Natural Resources Defense Council
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(415) 875-6181

STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:

The Application for Certification
of Hydrogen Energy California
Power Plant

)
) DOCKET NO. 08-AFC-8
)

) **Petition for Intervention by the**
) **Natural Resources Defense Council**
)
)

May 14, 2010



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The Application for Certification)	Petition for Intervention by the
of Hydrogen Energy California)	Natural Resources Defense Council
Power Plant)	
_____)	

Petitioner, Natural Resources Defense Council, states:

1. Petitioner, Natural Resources Defense Council (“NRDC”) petitions to intervene in the above-entitled proceeding.
2. Petitioner, NRDC, engages in advocacy in the fields of climate change, energy, protection of lands, waterways and oceans, pollution and air quality, and possesses decades of relevant expertise in these areas. NRDC wishes to ensure that the siting of the proposed facility by Hydrogen Energy California (HECA) leads to permanent and verifiable mitigation of carbon dioxide emissions. NRDC also wishes to ensure that environmental interests are represented in the siting case, particularly relating to land and water use, air quality, and the protection of species and ecosystems.
3. Petitioner wishes to reserve the right to present evidence and to cross-examine witnesses.
4. George Peridas will participate in the proceeding for NRDC if allowed to intervene.¹

¹ George Peridas is solely providing technical expertise on behalf of NRDC, and he will not be representing NRDC in a legal capacity in this proceeding.

I. Standard for Intervention

Pursuant to Title 20 of the California Code of Regulations, §§ 1207 and 1712, NRDC petitions to intervene in these proceedings.

According to §1207:

- (a) Any person may file with the Docket Unit or the presiding committee member a petition to intervene in any proceeding. The petition shall set forth the grounds for the intervention, the position and interest of the petitioner in the proceeding, the extent to which the petitioner desires to participate in the proceedings, and the name, address, and telephone number of the petitioner.
- (b) In a power plant sitting case, the petitioner shall be filed no later than the Prehearing Conference or 30 days prior to the first hearing held pursuant to Sections 1725, 1748, or 1944 of this chapter, whichever is either, subject to the exception in Subsection (c) below. The petitioner shall also serve the petition upon the Applicant

Further, pursuant to §1207(c), the “presiding member may grant leave to intervene to any petitioner to the extent he deems reasonable and relevant...”

II. About the Natural Resources Defense Council

The Natural Resources Defense Council is a national, non-profit organization of scientists, lawyers and environmental specialists dedicated to protecting public health and the environment. Founded in 1970, NRDC has more than 1.3 million members and e-activists nationwide, of which around 255 thousand are in California, and is served from offices in New York, Washington, D.C., San Francisco, Los Angeles, Chicago and Beijing. The Natural

Resources Defense Council's purpose is to safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends.

III. Interest of NRDC in the HECA siting case

NRDC believes that climate change is a pressing environmental and social issue that demands prompt action. Climate change poses serious threats to environment and ecosystems, the economy, and national security. NRDC has been at the forefront of advocating for climate solutions on the federal, state and local level. NRDC was also heavily involved in the passage of AB32, California's Global Warming Solutions Act.

NRDC believes that pursuing all cost-effective energy efficiency and maximizing renewable energy should form the core and be at the forefront of combating climate change. However, the bulk of the world's energy supply is provided by fossil fuels, and is likely to continue to do so in the near future as we ramp up more preferred, sustainable resources. The urgency to reduce global greenhouse gas emissions and the magnitude of cuts needed render a technology like CCS an important safeguard and component of the mitigation portfolio if fossil fuel projects are allowed to proceed. In the context of California, CCS would enable deeper emission cuts from industrial facilities and from natural gas fired power generation. Extensive studies by the Intergovernmental Panel on Climate Change, the Massachusetts Institute of Technology, the International Energy Agency and numerous research organizations have concluded that the technology can be applied safely and effectively if projects are properly sited, operated and regulated, and that the inherent risks are similar to those of commonly practiced industrial activities such as natural gas storage and enhanced oil recovery.

All components of CCS technology have been demonstrated commercially, at scale, but the technology today faces primarily economic barriers. NRDC has been advocating for incentives, performance standards and policies that will enable the early and subsequent deployment of CCS technology, as well as a national regulatory framework to ensure that CCS is performed safely and effectively. Early projects are crucial to the advancement of the technology. In addition, NRDC views enhanced oil recovery using CO₂ as a quicker and environmentally less intrusive way to source domestic oil and reduce import compared to the distinct environmental downsides of drilling offshore and in protected areas – with the added potential to sequester CO₂ in the process.

Regardless of the merits of a technology, however, the siting of a specific project must take into account a greater number of factors and be sensitive to local needs and concerns. In particular, NRDC issued a statement regarding the siting of CCS projects last year which outlines some of the issues that should be examined. In particular, the statement highlighted the need to consider whether:

- the facility has an enforceable commitment to capture the bulk of its CO₂ emissions for geologic sequestration in a permanent and verifiable manner (by itself or contractors and off-takers);
- the facility (or its contractors and off-takers) sequesters its CO₂ emissions in a suitable geologic depository that is capable of safe containment, under transparent and enforceable monitoring, verification, accounting and reporting provisions;
- the transportation of emissions to the geologic depository does not pose significant environmental impacts and risks;

- the facility will utilize best available control technology to reduce all conventional and hazardous air pollutants;
- the facility responsibly manages its solid wastes and its impacts on water resources;
- project planning and implementation respects local communities, for example, by making sure that the siting of the facility does not adversely affect disproportionately burdened communities; and
- project planning and implementation respects ecosystems by ensuring that the facility does not use coal obtained through irresponsible mining practices like mountaintop removal mining, and that the coal mining companies fully reclaim and restore mine sites.

NRDC's does not wish to become a party to this case with a de-facto view towards preventing the HECA project from being constructed or delaying the siting proceedings. The California Energy Commission Siting Division is tackling an unprecedented combination of authorities and agencies in permitting a facility that provides power generation with CO₂ capture, transport and sequestration. NRDC has significant technical and policy expertise in the subject-matter of CCS that will be beneficial to the Commission in rendering a decision on the technical aspects of this facility's plans, and ensuring the integrity of the sequestration under existing laws and regulations.

Although we are concerned with projects meeting all the above-referenced criteria, we are intervening in this proceeding primarily to address a narrower set of issues. Specifically, the main focus of our intervention will be to ensure the integrity of project from the standpoint of

greenhouse gas emissions. This necessarily entails ensuring an enforceable commitment for the capture and the permanent geologic sequestration of CO₂ in a transparent and verifiable manner. Although we are intending to focus on this issue in this proceeding, that does not indicate a position, or a lack thereof, on other matters addressed in this proceeding. We also reserve the right to address additional issues as the proceeding progresses.

IV. Timing of this Petition

This petition for intervention is timely because neither a Pre-hearing Conference nor a hearing pursuant to sections 1725, 1748, or 1944 has been scheduled.

V. Planned participation of NRDC

NRDC wishes to participate fully in all phases of this proceeding. NRDC also wishes to reserve the right to present evidence and to cross-examine witnesses if such involvement is needed.

For all foregoing reasons, NRDC respectfully urges the Commission to grant its petition to intervene in this proceeding and allow it to participate as a party.

Respectfully submitted,



May 14, 2010

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DECLARATION OF SERVICE

I, Evelyn Arévalo, declare that on May 14th, 2010, I mailed hard copies of the attached **Petition for Intervention by the Natural Resources Defense Council**, dated May 14, 2010. The original documents, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: **[www.energy.ca.gov/sitingcases/hydrogen_energy]**.

The documents have been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

 X sent electronically to all email addresses on the Proof of Service list;

 by personal delivery;

 by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

 X sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (***preferred method***);

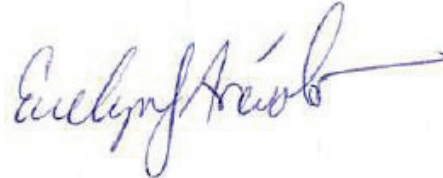
OR

 depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-8
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.



Evelyn Arévalo
Natural Resources Defense Council
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**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**APPLICATION FOR CERTIFICATION
FOR THE *HYDROGEN ENERGY*
*CALIFORNIA PROJECT***

Docket No. 08-AFC-8

**PROOF OF SERVICE LIST
(Rev. 5/10/10)**

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