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California Energy Commission

DOCKETED
08-AFC-8A

TN # 66162

JUL 10 2012

STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:)	Docket No. 08-AFC-8A
)	
REVISED APPLICATION FOR)	RESPONSES TO DATA REQUESTS 1-3
CERTIFICATION FOR THE HYDROGEN)	FROM ASSOCIATION OF IRRITATED
ENERGY CALIFORNIA PROJECT ("HECA"))	RESIDENTS (AIR) DATED JUNE 29, 2012
)	
)	

On June 30, 2012, intervenor Association of Irrigated Residents (AIR) docketed and served data requests in the above-referenced matter. Data requests 1-3 pertain to Applicant's two alternative proposals for transporting raw materials to, and finished products from, the Project site – rail option and truck option. AIR requested that Applicant provide responses to these questions prior to the Informational Hearing and Site Visit scheduled for July 12, 2012. As requested by AIR, Applicant hereby responds to data requests 1-3. Applicant will provide objections and/or responses to the remaining data requests according to the standard regulatory schedule.

Data Request 1:

This first question or data request is about "eminent domain" and is addressed to both HECA and the CEC. Assuming HECA decides they need to build a railroad spur through surrounding farmland and assuming local farmers may not wish to have this railroad spur disrupt their farming operations, then which government entity, if any, will exercise the option of eminent domain and condemn the farmland so that it can be sold to HECA? If there are multiple options, please indicate. We also request an answer to this question before the local Tupman meeting on July 12 since local residents will be present who need to have this information.

Response:

As a private entity, HECA does not have the power of eminent domain. Thus, there are no plans to acquire any property or rights of way needed for the Project by eminent domain.

Data Request 2:

If eminent domain procedures are initiated for the railroad spur, do these procedures have to be completed before the CEC gives final approval for HECA?

Response:

Please see response to data request 1 above.

Data Request 3:

During the workshop on June 20, a question was raised about whether HECA would receive approval with an option to use either a railroad spur for local railroad delivery of coal or use trucking of coal from the depot in the town of Wasco. Isn't it true that this option must be decided before any final CEC approval of the project? The two options are vastly different in their effects on local residents. If this is left as an open question indefinitely, please explain how that would be legal under CEQA regulations. Please clarify when these transportation options must be finalized.

Response:

As indicated at the workshop on June 20, 2012, HECA has requested that the CEC staff review both transportation options. The reason for this request is that it is not yet clear which of the two options will be preferred from practical and commercial perspectives. If at some point during the certification proceedings, it becomes clear which of the two options will be pursued, Applicant will notify the CEC staff that continued review of the other option is no longer necessary. It may be, however, that Applicant requests that a final certification be issued which includes both options. As long as both options, including their potential environmental impacts, are fully analyzed, CEQA requirements would be satisfied. There is existing CEC precedent for such an approach. For example, the Palmdale Hybrid Power Project was recently certified with two alternative transmission line routes.

DATED: July 9, 2012

Respectfully submitted,

/s/ Michael Carroll

Michael J. Carroll
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Counsel to Applicant

**STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of:) Docket No. 08-AFC-08A
)
AMENDED APPLICATION FOR) PROOF OF SERVICE
CERTIFICATION FOR THE HYDROGEN)
ENERGY CALIFORNIA PROJECT) (June 4, 2012)
)
_____)

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HYDROGEN ENERGY CALIFORNIA PROJECT
CEC Docket No. 08-AFC-08A

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HYDROGEN ENERGY CALIFORNIA PROJECT
CEC Docket No. 08-AFC-08A

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HYDROGEN ENERGY CALIFORNIA PROJECT
CEC Docket No. 08-AFC-08A

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DECLARATION OF SERVICE

I, Paul Kihm, declare that on July 9, 2012, I served and filed copies of the attached:

**RESPONSES TO DATA REQUESTS 1-3 FROM ASSOCIATION OF IRRITATED
RESIDENTS (AIR) DATED JUNE 29, 2012**

to all parties identified on the Proof of Service List above in the following manner:

California Energy Commission Docket Unit

☒ Transmission via electronic mail to:

CALIFORNIA ENERGY COMMISSION
Attn: DOCKET NO. 08-AFC-08A
1516 Ninth Street, MS-4
Sacramento, California 95814-5512
docket@energy.state.ca.us

For Service to All Other Parties

☒ Transmission via electronic mail to all email addresses on the Proof of Service list.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 9, 2012,
at Costa Mesa, California.

/S/ Paul Kihm

Paul Kihm