

Memorandum

Date: January 09, 2013
Telephone: (916) 651-8853
File: 08-AFC-08A

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

From: California Energy Commission
1516 Ninth Street
Sacramento, CA 95814-5512

Robert Worl,
Project Manager

California Energy Commission

DOCKETED
08-AFC-8A

TN # 69084

JAN. 09 2013

Subject: **HYDROGEN ENERGY CALIFORNIA, AMENDED (08-AFC-08A)**
STAFF STATUS REPORT #4

Pursuant to the Notice of Committee Meeting and Status Conference dated December 24, 2012, requesting all parties to file Status Reports by January 9, 2013, staff hereby files Status Report #4 for the Hydrogen Energy California, Amended AFC (HECA). Energy Commission staff and the U.S. Department of Energy (DOE) are jointly conducting the review of the proposed HECA project and intend to issue joint documents. Staff is evaluating the project subject to both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA). This status report focuses on those items that impact the ability of staff to complete its work on the Preliminary Staff Assessment/Draft Environmental Impact Statement (PSA/DEIS).

The applicant continues to provide data responses to staff and intervenor data requests, many of which remain outstanding, but are expected to be filed by the end of January, 2013. Delays in filing responses have resulted from the need to secure information from Occidental Elk Hills, Incorporated (OEHI), regarding the proposed enhanced oil recovery (EOR) program which is intended to benefit from the sale/transfer of CO₂ from the HECA facility for use in that process. Staff has requested information from the applicant that can best be provided by OEHI. As a part of the OEHI component, staff has requested information to aid in analyzing the OEHI EOR project as a connected action pursuant to the requirements of CEQA, including the status of the application for permits required by the California Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR). Staff continues to work with DOGGR to insure that staff incorporates appropriate information from the DOGGR process into the PSA/DEIS. OEHI has until 2016 to secure the appropriate DOGGR permits.

This report summarizes the outstanding information from all sources, including a staff Issues Resolution Workshop regarding water supply needed by staff for the preparation of

the Preliminary Staff Assessment/Draft Environmental Impact Statement (PSA/DEIS). The attached proposed schedule is based on staff's understanding of delivery dates and other necessary activities needed to insure that staff is able to prepare a complete PSA/DEIS. Activities and events that are completed have been deleted from the proposed schedule attached to this report.

PROCEEDING UPDATE

Procedural Activities and Coordination Efforts to Date:

Outstanding Data Requests: Staff anticipates receiving the remaining data responses for Set 1, Set 2, Set 3, and additional staff questions raised at data response workshops by early February 2013. Technical areas that are expecting data responses and associated information include air quality, alternatives, cultural resources, land use, waste management and water resources. Additionally staff will consider the applicant's responses to data requests from the interveners in the HECA process.

Water Resources: Staff intends to conduct an Issues Resolution Workshop early in February, 2013, to discuss the proposed water use plan, water supply options, and potential impacts that could result from the proposed HECA operations. Staff's Issues Identification Report, dated July 10, 2012, indicated that "(s)taff anticipates significant time will be required to conduct technical workshops and ensure sufficient discovery to ensure there are no significant impacts from the proposed groundwater pumping." Staff has conducted independent water supply modeling that may be of value in identification of potential impacts and potential mitigation strategies surrounding the proposed water supply. The applicant responses to data requests to date have relied primarily on modeling noted in a letter (TN: 59009, dated November 10, 2010,—"Statement for HECA Power Plant Projects Proposed Use of Buena Vista Storage District's Brackish Water") from the Buena Vista Water Storage District. The modeling referenced in the letter has not been made available to staff and the letter does not contain additional water source information. Staff is preparing a document that provides the modeling information prepared by staff, and a preliminary analysis reflecting staff concerns. Energy Commission staff will file its preliminary water supply report that summarizes the staff's remaining concerns and potential issues prior to the proposed workshop. Staff continues seeking additional information and input from the applicant, the Buena Vista Water Storage District, the State Water Resources Control Board (SWRCB) and the Central Valley Regional Water Quality Control Board (CVRWQCB) offices regarding proposed brackish water sources as described by the applicant in the Amended AFC.

Cultural Resources: Energy Commission staff continued discussions with the applicant regarding the planning and conducting a geo-archaeological investigation that will aid staff in crafting appropriate mitigation measures protective of cultural resources that may be impacted by HECA. Energy Commission staff has requested a draft geo-archaeology plan that will require the applicant to conduct an evaluation

prior to the completion of the Final Staff Assessment/Environmental Impact Statement.

Coordination with Federal and State Agencies:

Staff conducts monthly multi-agency coordination calls regarding HECA, with the next call scheduled for January 22, 2013. These calls provide information regarding schedule and an opportunity to seek input from participating agencies regarding progress on key elements, including the preliminary determination of compliance (PDOC) and its components, progress on the preparation of the biological assessment and the schedule for the Biological Opinion. The San Joaquin Valley Air Pollution Control District has indicated that it is aiming to publish the PDOC by late February to mid-March 2013.

California Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR):

A draft drilling application and additional information was submitted to DOGGR by Occidental Petroleum-Elk Hills, Incorporated (OEHI) on October 5, 2012, covering the first phase – up to 25 wells – of the enhanced oil recovery (EOR) program which intends to utilize CO₂ from the HECA facility. Additional data responses were also provided by HECA and OEHI on October 15, 2012. DOGGR stated they are reviewing the information provided. Energy Commission staff and DOGGR staff are in discussions regarding the development of the analysis of the EOR project and the subsequent mitigation and monitoring to be required for accounting for the CO₂ storage/sequestration resulting from the EOR process. It remains unclear to what extent DOGGR's permitting process will track the Energy Commission's timeframe for processing the HECA permit. OEHI continues to engage with DOGGR regarding the EOR application process.

Kern County:

Kern County Planning and Community Development Department and the Energy Commission staff continue to discuss the county's information needs in regard to the HECA and the Elk Hills Oil Field. The county and the applicant are actively engaged in information exchange. The Planning and Community Development Department intends to bring the proposed county conditions of approval and mitigation measures for the proposed project (Kern County's process for conditional use permits for power plants) to the County Board of Supervisors by February 5, 2013. If the County Board of Supervisors approves the recommendations, county staff then will forward those comments and recommended conditions to both HECA and the Energy Commission staff for consideration.

Schedule:

The schedule for HECA continues to be dynamic. Staff expects the publication of the PDOC to occur to mid-March, 2013, and staff will require at least 30 days from that date to complete the Preliminary Staff Assessment/Draft Environmental Impact

Statement. Staff coordination with Kern County and DOGGR will continue based on need and the submission of information from HECA and from OEHI. The suggested schedule adjustments that follow are based upon best available information from all participants in the HECA evaluation process. Staff opinion is that a complete PSA/DEIS will be dependent upon receipt of all needed information, and at this time the SJVAPCD PDOC would appear to be the key time-affected element that staff will need.

STAFF SUGGESTED SCHEDULE BASED ON CURRENT INFORMATION:

	ACTIVITY	Calendar Day
Items 1-14	These items have been completed, and are listed in the previous status report #3, filed on 12/20/12	
15	Staff files Status Report #4	01-09-13
16	Committee Meeting	01-10-13
17	Committee Status Conference	01-16-13
18	Applicant expected to file outstanding responses to data request Set 3: 45 day extension requested on 11/20/2012	01- 16-13
19	Remaining data responses from Set 1, Set 2, and Workshops by:	01-30-13
20	Staff Workshop regarding water supply issues to be held in Sacramento.	2-TBD-13
21	Staff files Status Report #5	02-18-13
22	SJVAPCD issues Preliminary Determination of Compliance (expected based upon discussions between staff and the District)	02-28-13
23	Preliminary Staff Assessment/Draft Environmental Impact Statement filed	03-29-13
24	Preliminary Staff Assessment workshop to be held in Buttonwillow	04-15-13
25	SJVAPCD issues Final Determination of Compliance (FDOC)	04-TBD-13
26	Staff files Status Report #6	05-17-13
27	Comments on PSA/DEIS are due (45 days)	05-03-13
28	Final Staff Assessment/Final EIS filed	06-04-13
29	Comments on FSA/FEIS are due (45 days due to NEPA regs)	07-19-13
30	Prehearing Conference*	TBD
31	Evidentiary hearings*	TBD
32	Committee files Presiding Member's Proposed Decision*	TBD
33	Hearing on the PMPD*	TBD
34	Commission issues final Decision*	TBD
*Items 30 thru 34 will be scheduled by the Committee		



**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
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**AMENDED APPLICATION FOR CERTIFICATION
FOR THE HYDROGEN ENERGY
CALIFORNIA PROJECT**

**Docket No. 08-AFC-08A
PROOF OF SERVICE
(Revised 12/24/12)**

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will provide a copy to the persons
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DECLARATION OF SERVICE

I, Diane L. Scott, declare that on January 9, 2013, I served and filed copies of the attached **HYDROGEN ENERGY CALIFORNIA, AMENDD (08-AFC-08A) STAFF STATUS REPORT #4**, dated January 9, 2013. This document is accompanied by the most recent Proof of Service, which I copied from the web page for this project at: <http://www.energy.ca.gov/sitingcases/NAME OF PROJECT/notices/index.html>.

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

(Check one)

For service to all other parties and filing with the Docket Unit at the Energy Commission:

- X I e-mailed the document to all e-mail addresses on the Service List above and personally delivered it or deposited it in the US mail with first class postage to those parties noted above as "hard copy required"; **OR**
- Instead of e-mailing the document, I personally delivered it or deposited it in the US mail with first class postage to all of the persons on the Service List for whom a mailing address is given.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I am over the age of 18 years.

Dated: January 9, 2013


Diane L. Scott, *Project Assistant*
Siting, Transmission and Environmental Protection Division