

Memorandum

Date: March 4, 2010
Telephone: (916) 654-4894

To: James Boyd, Vice Chairman and Presiding Member
Jeffrey D. Byron, Commissioner and Associate Member
Hearing Officer, Raoul Renaud

DOCKET	
08-AFC-8	
DATE	MAR 04 2010
REC'D	MAR 04 2010

From: California Energy Commission – Rod Jones
1516 Ninth Street
Sacramento, CA 95814-5512
Project Manager

Subject: **HYDROGEN ENERGY CALIFORNIA PROJECT (08-AFC-8) STATUS REPORT 3**

Staff submits the following Status Report #3 for the proposed Hydrogen Energy California (HECA) project, pursuant to the Committee Scheduling Order dated September 28, 2009.

Current Issues and Activities for Resolution

Staff continues to coordinate with Hydrogen Energy International, LLC (applicant) and the California Department of Conservation's Division of Oil, Gas, and Geothermal Resources (DOGGR) regarding the project's proposal to sell carbon dioxide (CO₂) to Occidental Petroleum Corporation (Oxy) for use in an enhanced oil recovery (EOR) process. On February 2, 2010, Oxy submitted a letter to the Energy Commission which proposes an approach for addressing some of the concerns expressed by Energy Commission staff and DOGGR about the EOR use of CO₂ from the proposed HECA project, how it will be analyzed, and by which regulatory agency.

Following up on its letter, Oxy plans to submit to Energy Commission staff in mid-March:

- A project description regarding the CO₂ EOR process phase of the overall HECA project;
- Technical studies analyzing the potential for CO₂ sequestration resulting from this process;
- A non-confidential summary of the type of Class II UIC (underground injection control) well permit Oxy expects to submit to DOGGR when the Commission's siting process for HECA reaches or nears a successful conclusion; and
- Proposed measuring, monitoring, verification and well abandonment standards.

In addition, staff has prepared an initial response (Attachment) to Oxy's February 2 letter seeking further clarification and information relating to the carbon sequestration proposal by Hydrogen Energy, and Oxy's role.

Staff met with DOGGR on February 22, 2010 to discuss Oxy's letter and determine if it presents a viable approach for regulating carbon sequestration. DOGGR staff stated they have primacy to regulate EOR and not sequestration of CO₂. It is unknown at this time how much of Oxy's proposal addresses EOR following established regulatory practice by DOGGR, and whether the sequestration process would be handled differently. The United States Environmental Protection Agency (USEPA) is in a rule making process, specifically for primacy (enforcement authority) for CO₂ sequestration and appears to be more than a year away from providing new policy that would be administered by DOGGR. Staff is requesting a Status

Conference this month with the HECA Project Committee to discuss concerns regarding identifying a viable regulatory process to evaluate the carbon sequestration proposal.

Draft Biological Assessment

On January 29, 2010, the applicant filed the draft Biological Assessment (BA) for the HECA project prepared on behalf of the U.S. Department of Energy, Office of Project Facilitation and Compliance National Energy Technology Laboratory. The BA provides a project evaluation starting point for consultation with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act. The BA document is currently being reviewed by Commission technical staff.

Responses to Energy Commission Data Requests Set No. 1 and 2

On February 1, 2010, staff received the responses to Data Request Set One (Nos. 17, 65, 77, and 85 through 90), and Set Two (Nos. 133 through 152). Significant information concerning the carbon sequestration proposal, however, remains outstanding. As discussed above, staff hopes to begin receiving this information in mid-March. Staff believes that it now has enough information from the applicant to proceed with holding a Data Response/Issue Resolution Workshop in all areas except those dealing with carbon sequestration. To avoid losing time, staff will move forward with scheduling a multi-disciplinary data response workshop in early April with the applicant, while it is waiting to address the Committee in the Status Conference requested above, regarding the regulatory permitting issues for sequestration.

DOE Notice of Intent to Prepare an Environmental Impact Statement (EIS) and Notice of Potential Floodplain and Wetlands Involvement

On February 5, 2010, staff received from the United States Department of Energy (DOE), a draft notice of intent to prepare an Environmental Impact Statement for the HECA project. Staff has reviewed the information and has determined that the Energy Commission's role is accurately stated in the document. The actual footprint of the proposed project facility would likely not affect any wetlands and floodplains. However, if it is determined through analysis that floodplains would be affected by the project, DOE will prepare a floodplain and wetland assessment in accordance with its regulations at 10. C.F.R. Part 1022 and include the assessment in the EIS.

Schedule

The HECA Committee Schedule released on September 28, 2009 continues to slip due to the permitting process issues noted above for the carbon sequestration aspect of the project, including the need for information from Oxy, and delays in receiving data responses. Following the requested Committee Status Conference and the planned Data Response /Issue Resolution Workshop, staff will be recommending a revised project schedule.



**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. 2/8/10)**

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DECLARATION OF SERVICE

I, April Albright, declare that on March 4, 2010, I served and filed copies of Energy Commission Staff's Status Report 3; and Response Letter to Occidental Regarding CO₂ Enhanced Oil Recovery Project, both dated March 4, 2010. The original document, 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:

- sent electronically to all email addresses on the Proof of Service list;
- by personal delivery;
- 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:

- 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.

Original signed by: _____
April Albright