DOCKET
08-AFC-8
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STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:	)	
	)	DOCKET NO. 08-AFC-8
	)	
The Application for Certification	)	**Petition for Intervention by**
of Hydrogen Energy California	)	**Environmental Defense Fund**
Power Plant	)	
	)	

April 27, 2010 — Date

/s/ Timothy O'Connor — Timothy O'Connor

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Petitioner, Environmental Defense Fund, states:

1. Petitioner, Environmental Defense Fund ("EDF") petitions to intervene in the above-entitled proceeding.

2. Petitioner, EDF, has an interest in the proceeding in that it represents its members who live in California, both in proximity to the proposed plant and in areas which are particularly susceptible to impacts from climate change. EDF also employs staff and expends considerable resources to engage in programs focused on ocean and wetland protection, fisheries management and ambient air quality protection; the success of which are directly threatened by the impacts of climate change. Greenhouse gas emissions from the proposed plant will be mitigated by carbon capture and sequestration technology. EDF therefore, in protection of its members' interest and the outcome of the programs it runs, has an interest in ensuring the proposed project achieves the greenhouse gas emissions reduction planned.

3. Petitioner does wish to reserve the right to present evidence and to cross-examine witnesses.

4. Petitioner will be represented by Timothy O'Connor, an attorney for Environmental Defense Fund located at 1107 9th St., Suite 540 Sacramento, CA 95814.

Continuation pages are attached.

I. Standard for Intervention

Pursuant to Title 20 of the California Code of Regulations, §§ 1207 and 1712, Environmental Defense Fund 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. Environmental Defense Fund Background

Environmental Defense Fund is a national non-profit corporation representing more than 500,000 dues-paying members nationwide and over 60,000 in California. Since 1967, EDF has linked science, economics and law to create innovative, equitable and cost-effective solutions to society's most urgent environmental problems. As an organization, EDF has been

active in California on environmental issues since the 1970's, and has participated in proceedings on energy-related topics since 1976. Most notably in California, EDF was a co-sponsor of AB 32, the Global Warming Solutions Act of 2006, which requires California to reduce its greenhouse gas (GHG) emissions to 1990 levels by 2020. Since 2006, EDF has continued to participate as an active stakeholder in the implementation of AB 32 and to act as an information resource to California in its effort to transition to a low carbon economy.

III. Interest of Environmental Defense Fund

EDF's interest in the current proceeding stems from an organizational priority to prevent the impacts of greenhouse gases and catastrophic climate change on EDF's members and organizational programs. The impacts of climate change include degraded air quality, reduced snowpack and access to lasting supplies of fresh water, inundated low elevation lands and increased extreme weather and heat events. Such impacts threaten the livelihood, health and well being of the citizens of California and EDF's over 50,000 members that reside here, each of whom will experience the deleterious effects of climate change in a unique and particularized manner. These impacts also threaten to directly undermine work that EDF has been doing in California over the last 35 years, including protecting oceans and wetlands, creating sustainable management practices for fisheries, and improving ambient air quality in urban and rural areas.

EDF is an active advocate for the development of technological solutions to reduce greenhouse gases; and EDF asserts that the carbon capture and sequestration (CCS) technologies at issue in this proceeding carry important and proven potential for doing so. By providing one of many needed solutions to reduce greenhouse gas emissions from fossil fuel

derived energy generation, CCS can serve as a bridge technology for smoothing the transition to dramatically reduced greenhouse gas emissions in a fast and cost-effective manner.

The HECA plant and corresponding Elk Hills enhanced oil recovery project is the first project of its kind in the state and can go a long way toward proving and providing the benefits of low-carbon fossil fuel energy generation and CCS to California. Accordingly, EDF's participation in this case is not meant to signify opposition or a desire to derail the project, rather our focus is to assist the Energy Commission Siting Division as it navigates the unique combination and application of permitting authorities and agencies associated with this case. Additionally, EDF recognizes the need to conduct the current proceedings within a timeframe that will allow this project to take advantage of funds procured under the American Recovery and Reinvestment Act (ARRA) as well as in a manner that allows the permitting decisions to serve as beneficial precedent for future carbon sequestration projects. Therefore, we do not intend to delay the siting proceeding, but rather to ensure the project includes sufficiently rigorous and accurate monitoring, verification and reporting for carbon dioxide subsurface injection (and sequestration).

EDF's position on carbon capture and sequestration in this proceeding is that compliance with existing state environmental laws, greenhouse gas reduction goals, and federal government grant procurement guidelines demands the overall Hydrogen Energy project achieve the monitoring, verification and reporting ("MVR") necessary to accurately account for the amount of carbon dioxide that remains in the subsurface. Such MVR is key to documenting and providing reasonable assurance that the CO2 will remain trapped in the subsurface indefinitely. While EDF acknowledges that the power generation entity, Hydrogen Energy, does not operate

or control the CO2 injection site, the power generation project emissions are nevertheless mitigated by the CO2 injection, meaning the plans to perform MVR must therefore be considered alongside the overall project permitting documents.

Pursuant to EDF's interest in preventing climate change and developing CCS as a bridge technology for California's transition to a low-carbon economy, EDF's focus in this siting case will primarily center on the CO2 capture and sequestration aspect of the project. We do however acknowledge that the Commission and other California state agencies have a threshold responsibility to defend traditional environmental interests and standards as they make room for innovative technology like that presented in the HECA application to gain a foothold in California. EDF supports this mission and intends to work with the agency in this endeavor within this proceeding. EDF therefore reserves the right to participate and comment on other aspects of the project as they arise in the commission's proceeding.

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 EDF

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

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

Respectfully submitted,

April 27, 2010

Date

/s/ Timothy O'Connor

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STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Commission

In the Matter of:	)	
	)	DOCKET NO. 08-AFC-8
	)	
The Application for Certification of Hydrogen Energy California Power Plant	)	**PROOF OF SERVICE**

DECLARATION OF SERVICE

I, Holly Thompson declare that on April 27, 2010, I deposited copies of the attached Petition for Intervention of Environmental Defense Fund in the United States mail at Sacramento, California with first class postage thereon fully prepaid and addressed to those identified on the Proof of Service list below. Transmission via electronic mail was made to the electronic service list and was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210. I declare under penalty of perjury that the foregoing is true and correct.

/s/ Holly Thompson
Holly Thompson
Environmental Defense Fund

APPLICANT
Gregory D. Skannal
Tiffany Rau
Rick Harrison
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Energy Commission
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