California Energy Commission
DOCKETED
08- AFC-8A
TN 69957
MAR 19 2013

From: Jacquelyn Kitchen [mailto:KitchenJ@co.kern.ca.us]
Sent: Friday, March 08, 2013 1:46 PM
To: Heiser, John@Energy
Cc: Fong, Jonathan@Energy; Worl, Robert@Energy
Subject: RE: CEC HECA Staff request for WAC Contract Cancellation application

Hi all; here is a copy of the WAC cancellation application from the HECA applicant:

Thank you,
Jacqui

Jacquelyn R.Kitchen
Supervising Planner, Advanced Planning Division
Kern County Planning & Community Development Department
2700 "M" Street, Suite 100
Bakersfield, CA 93301
(661) 862-8619 Direct
(661) 862-8601 Fax

PETITION FOR CANCELLATION OF A LAND USE CONTRACT OR LAND USE AGREEMENT

CALIFORNIA LAND CONSERVATION ACT

Date: December 20, 2012

I, See attached Exhibit "A",
owner of the property described below, petition the Kern County Board of Supervisors for cancellation of all or a portion of an Agricultural Preserve Land Use Contract or Land Use Agreement, pursuant to Chapter 7, Article 5, Sections 51280 through 51286 of the Government Code, State of California, and pursuant to Kern County Board of Supervisors Resolution No. 72-69, dated January 25, 1972.

Signature (please have notarized)

Mailing Address

Name of Previous Property Owner (if known)

DESCRIPTION OF PROPERTY INCLUDED IN THE CANCELLATION REQUEST:

Assessor's Parcel Number(s):
159-040-02

LEGAL DESCRIPTION (include plot plan or map of the area):

See attached Exhibit "B"

REASONS FOR WHICH THE CANCELLATION IS REQUESTED (refer to Section 51282, Government Code, State of California, as set forth on Page 2):

See attached Exhibit "C"

NOTE: Return this Petition and a filing fee of $990 (which is nonrefundable) to:

KERN COUNTY PLANNING DEPARTMENT
2700 "M" STREET, SUITE 100
BAKERSFIELD, CA 93301

******* FOR OFFICE USE ONLY *******

Name _____ APN _____ Map #_____ S.D. #_____
Last First Middle

Contract Executed by _____

Recordation Date _____ Book _____ Pages _____

Fee _____ Receipt #_____ Date _____ Rec'd by _____

Section 51282, Government Code, State of California

Petition for Cancellation of Contract; Grounds

(a)The landowner may petition the Board of Supervisors for cancellation of any Contract as to all or any part of the subject land. The Board may grant tentative approval for cancellation of a Contract only if it makes one of the following findings:

(1)That the cancellation is consistent with the purposes of Chapter 7; or

(2)That cancellation is in the public interest.

(b)For the purposes of paragraph (1) of subdivision (a), cancellation of a Contract shall be consistent with the purposes of Chapter 7 only if the Board makes all of the following findings:

(1)That the cancellation is for land on which a notice of nonrenewal has been served pursuant to Section 51245.

(2)That cancellation is not likely to result in the removal of adjacent lands from agricultural use.

(3)That cancellation is for an alternative use which is consistent with the applicable provisions of the County General Plan.

(4)That cancellation will not result in discontiguous patterns of urban development.

(5)That there is no proximate non-Contracted land which is both available and suitable for the use to which it is proposed the Contracted land be put, or, that development of the Contracted land would provide more contiguous patterns of urban development than development of proximate non Contracted land.

(c)For purposes of paragraph (2) of subdivision (a), cancellation of a Contract shall be in the public interest only if the Board makes the following findings:

(1)That other public concerns substantially outweigh the objectives of Chapter 7; and

(2)That there is no proximate non-Contracted land which is both available and suitable for the use to which it is proposed the Contracted land be put, or, that development of the Contracted land would provide more contiguous patterns of urban development than development of proximate non-Contracted land.

(d)For purposes of subdivision (a), the uneconomic character of the existing agricultural use shall not by itself be sufficient reason for cancellation of the Contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(e)The landowner's petition shall be accompanied by a proposal for a specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use, and the provisions and requirements of Section 51283.4 shall be fully applicable thereto. The level of specificity required in a proposal for a specified alternative use shall be determined by the Board as that necessary to permit them to make the findings required.

(f)In approving a cancellation pursuant to this section, the Board shall not be required to make any findings other than or in addition to those expressly set forth in this section and, where applicable, in Section 21081 of the Public Resources Code.

PROVIDE A STATEMENT INDICATING WHY THE PROPOSED CANCELLATION COMPLIES WITH THE ABOVE SECTION OF THE GOVERNMENT CODE.

See attached Exhibit "D"

ACKNOWLEDEMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF KERN)

On this _____ day of _____, 2008, before me, _____, Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

_____

Exhibit "A"

I, Dane Peacock, Assistant Secretary of Hydrogen Energy International LLC, the owner of APN Nos. 159-040-02, 159-040-16 and 159-040-18, on behalf of Hydrogen Energy International LLC, petition the Kern County Board of Supervisors for cancellation of all or a portion of an Agricultural Preserve Land Use Contract or Land Use Agreement, pursuant to Chapter 7, Article 5, Sections 51280 through 51286 of the Government Code, State of California, and pursuant to Kern County Board of Supervisors Resolution No. 72-69, dated January 15, 1972.

Signature

12. 19. 2012
Date

700 Louisiana Street, 32nd Floor
Houston, TX 77002

STATE OF TEXAS §
§
COUNTY OF HARRIS §

On December 19, 2012 before me, Kaye Moehle, Notary Public, personally appeared Dane Peacock, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public

E. KAYE MOEHLE
NOTARY PUBLIC
STATE OF TEXAS
MY COMM. EXP. 1-26-2015

LEGAL DESCRIPTION

EXHIBIT "B"

FOR CANCELLATION OF A LAND USE CONTRACT

That portion of the East Half of the Southeast Quarter of Section 10, Township 30 South, Range 24 East, Mount Diablo Meridian, described as follows:

Commencing at the Point of Beginning (P.O.B.) being the east quarter corner of said Section 10; Thence North 89°24'15" West 1321.11 feet (L3); Thence South 00°44'00" West 2359.90 feet to a point on a line parallel with and 280.00 feet northerly of the southerly line of said Section 10; Thence along said parallel line South 89°27'40" East, 1321.34 feet to a point on the east line of said Section 10; Thence along said east line North 00°43'40" East, 2358.58 feet to said Point of Beginning (P.O.B.)

Contains 71.558 acres.

Subject to all matters of record, if any.

See Exhibit "B", Attachment "A" attached hereto and made a part hereof.

This legal description is not intended for use in the division and /or conveyance of land in violation of the Subdivision Map Act of the State of California.

This legal description has been prepared by me or under my direction:

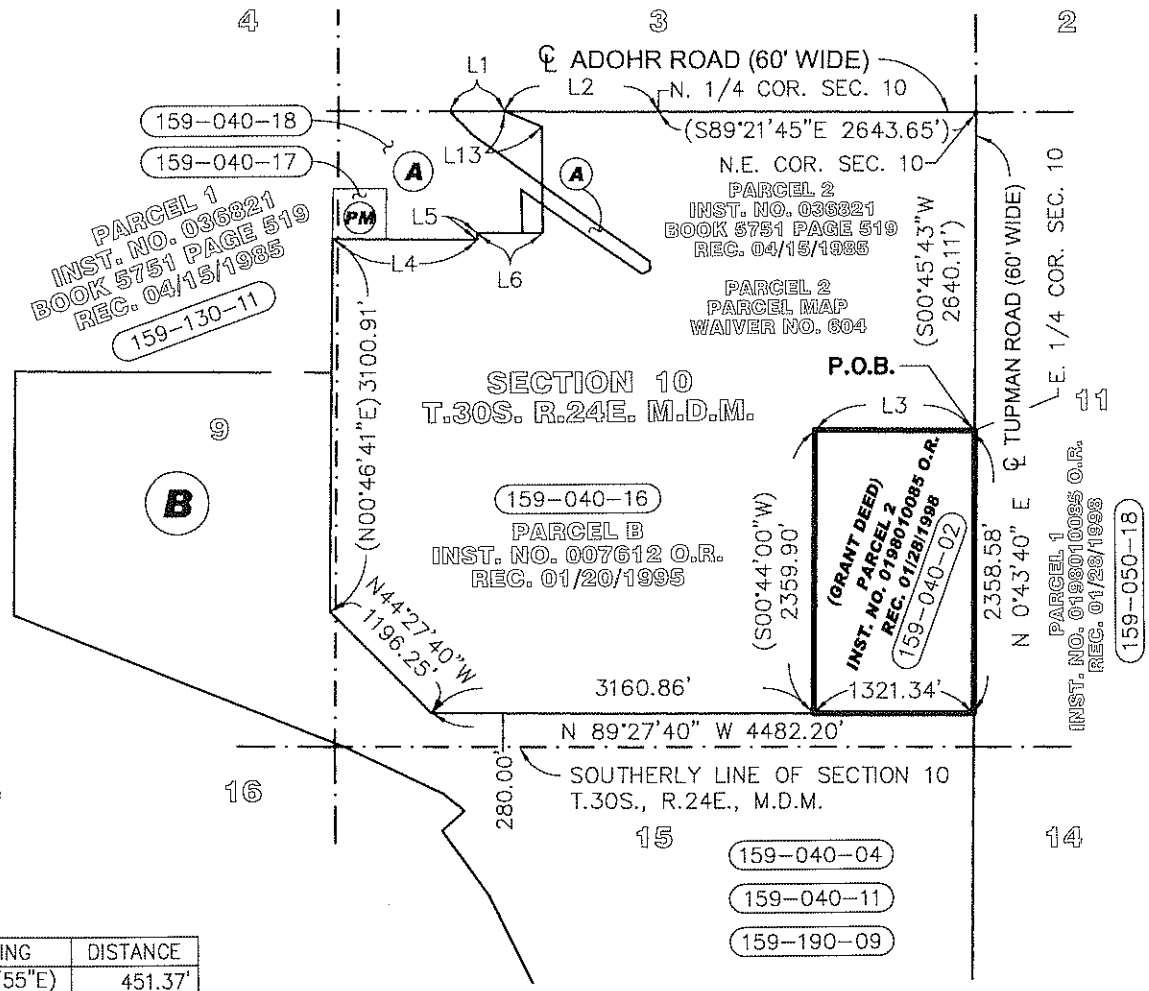
PROFESSIONAL LAND SURVEYOR
DAVID E. WOOLLEY
No. 7304
STATE OF CALIFORNIA

David E. Woolley, P.L.S. 7304 Dated: 12/19/12

This document is preliminary unless signed.

Pursuant to California Business and Professions Code § 8761 the recorded document shall bear the signature and seal hereon.

David E. Woolley, Professional Land Surveyor 7304
D. Woolley & Associates, Inc., 2832 Walnut Avenue, Suite A, Tustin, California 92780
Phone: 714-734-8462 FAX: 714-508-7521
dave@dwoolley.com



LAND AREA

71.558 ACRES

LINE TABLE

LINE	BEARING	DISTANCE
L1	(S89°21'55"E)	451.37'
L2	(S89°21'55"E)	1263.39'
L3	(N89°24'15"W)	(1321.11')
L4	(S89°14'01"E)	(1205.04')
L5	(N00°23'43"W)	(56.24')
L6	(S89°51'55"E)	539.75'

RECORD REFERENCE

( ) INDICATES RECORD DATA PER CERTIFICATE OF COMPLIANCE, REC. 01/20/1995 AS INST. NO. 007612 O.R.

LEGEND

- (A) PARCEL A OF INST. NO. 007612 O.R., REC. 01/20/1995
- (B) PARCEL B OF INST. NO. 007612 O.R., REC. 01/20/1995
- (PM) PARCEL MAP NO. 10341, P.M.B. 49/7-8
- 10 SECTIONAL NUMBER OF T30S, R24E, M.D.M.
- 159-040-02 ASSESSORS PARCEL NUMBER
- LAND USE BOUNDARY LINE
- PROPERTY LINE
- SECTION LINE

0' 800' 1600'

SCALE: 1" = 1600'

PROFESSIONAL LAND SURVEYOR
DAVID E. WOOLLEY
No. 7304
STATE OF CALIFORNIA

Section 10, T30S, R24E, Mount Diablo Meridian
County of Kern, State of California

HECA PROJECT

EXHIBIT "B", ATTACHMENT "A"
FOR CANCELLATION OF A LAND USE CONTRACT

Scale:	1" = 1600'
Date:	11/28/12
Drafted:	GFL
Reviewed:	DEW
Task No.	DWA-9256
Sheet:	1 of 1

D. Woolley & Associates
2832 Walnut Avenue, Suite A
Tustin, California 92780
(714) 734-8462 www.dwoolley.com

Exhibit "C"

REASONS FOR WHICH THE PROPOSED CANCELLATION IS BEING REQUESTED (GOV. CODE, § 51282)

Hydrogen Energy California, LLC (HECA LLC) is requesting cancellation of the Williamson Act contract restrictions over a 71.558-acre parcel (APN No. 159-040-02) in order to facilitate construction of Hydrogen Energy California, an Integrated Gasification Combined-Cycle (IGCC) electrical power generating facility (referred to herein as HECA or the Project) on a 453-acre site (Project Site). The Project Site is currently owned by Hydrogen Energy International, LLC, a Delaware limited liability company (Owner). HECA LLC has an option to purchase the Project Site from the Owner along with 653 additional acres adjacent to the Project Site (Controlled Area).

I. Project Description

The Project will be a state-of-the-art facility that will produce electricity and other useful products. The Project will gasify a coal and petroleum coke (petcoke) fuel blend to produce synthesis gas (syngas). Syngas produced via gasification will be purified to hydrogen-rich fuel, which will be used to generate low-carbon baseload electricity in a Combined Cycle Power Block, low-carbon nitrogen-based fertilizer in an integrated Manufacturing Complex, and carbon dioxide (CO_2) for use in enhanced oil recovery (EOR).

The power and fertilizer produced by the Project have a lower carbon footprint than power and similar products traditionally produced from fossil fuels. This low-carbon footprint is accomplished by capturing approximately 90 percent of the CO_2 in the syngas and transporting the CO_2 off-site for use in EOR, which will result in sequestration (storage) of the CO_2 in a secure geologic formation. CO_2 will be transported for use in EOR in the adjacent Elk Hills Oil Field (EHOF), which is owned and operated by Occidental of Elk Hills, Inc. (OEHI). The OEHI EOR Project will be separately permitted by OEHI through the Department of Conservation, Division of Oil, Gas, and Geothermal Resources (DOGGR).

Major components located on the Project Site will include:

- **Solids handling, gasification, and gas treatment:**
  - Feedstock delivery, handling, and storage
  - Gasification Unit
  - Sour Shift/LTGC/Mercury Removal units
  - AGR Unit
  - SRU/Tail Gas Compression
  - CO_2 compression
- **Power generation:**
  - Combined Cycle Power Block equipment
  - Electrical equipment and systems

- **Manufacturing Complex:**
  - PSA Unit
  - Ammonia Synthesis Unit
  - CO_2 compression and purification (for urea production)
  - Urea Unit
  - Urea Pastillation Unit
  - UAN Complex (includes Nitric Acid Unit, Ammonium Nitrate Unit, and Urea Ammonium Nitrate Unit)
- **Supporting process systems:**
  - Natural gas fuel systems
  - ASU
  - Sour water treatment
  - Wastewater treatment for process and plant wastewater streams
  - Raw water treatment plant for process water
  - Other plant systems (i.e., heat rejection systems, auxiliary boiler, flares, emergency engines, fire protection, plant instrumentation, and air emission monitoring systems)

Highlights of the Project are as follows:

- The feedstocks will be gasified to produce syngas that will be further processed and cleaned in the Gasification Block to produce hydrogen-rich fuel.

- Approximately 90 percent of the carbon in the raw syngas will be captured in a high-purity CO_2 stream during steady-state operation.

- High purity CO_2 will be compressed and transported by pipeline to the EHOF for injection into deep underground hydrocarbon reservoirs for CO_2 EOR.

- The Combined Cycle Power Block will generate approximately 405 megawatts (MW) of gross power and will provide a nominal 300 MW of low-carbon baseload electricity to the grid during operations, feeding major load sources.

- An integrated Manufacturing Complex will produce approximately 1 million tons per year of low-carbon fertilizer to be used in agricultural applications.

- The power and fertilizer produced by the Project will have a significantly lower carbon emission profile relative to similar power and products traditionally generated from fossil fuels, such as natural gas or coal. Natural gas is the fuel source predominantly used for power generation in California.

- The process water source for the Project will be brackish groundwater from the Buena Vista Water Storage District (BVWSD) Brackish Groundwater Remediation Project. The water will be supplied via an approximately 15-mile pipeline from northwest of the Project Site by BVWSD and will be treated on site to meet Project specifications. Potable water will be supplied by West Kern Water District (WKWD) for drinking and sanitary purposes.

- There will be no direct surface water discharge of industrial wastewater or storm water. Process wastewater will be treated on site and recycled for reuse within the Project. Other wastewaters (e.g., from cooling tower blowdown and the wastewater treatment unit) will be

collected and directed to on-site zero liquid discharge (ZLD) unit. Water recovered by the ZLD unit is recycled for reuse within the facility.

- The Project is designed with state-of-the-art emission control technology to achieve minimal air emissions through the use of Best Available Control Technology (BACT). The Project is designed to avoid flaring during steady-state operation, and to minimize flaring during startup and shut-down operations.

- Project greenhouse gas (GHG) emissions (e.g., CO_2) will be reduced through carbon capture and CO_2 EOR, which will result in sequestration.

- Promoting energy security by converting abundant and inexpensive solid fuels – coal and petcoke – to clean hydrogen fuel to produce electricity and other useful products.

III. Project History and Background

The California Energy Commission (CEC) is responsible for reviewing and approving the Project under the Warren–Alquist Act (Pub. Resources Code, §§ 25500 *et seq.*). HECA LLC submitted its initial Application for Certification (AFC) on July 31, 2008, which proposed the Project on a different site. HECA LLC subsequently decided to relocate the Project when it discovered the existence of sensitive biological resources at the original site. A Revised AFC was submitted on May 28, 2009 for a new project site, and deemed data adequate on August 26, 2009.

On June 29, 2010, the Kern County Board of Supervisors adopted Resolution 2010-168, approving the tentative cancellation of the Williamson Act contracts on approximately 491 acres, which included the 473 acres comprising the former project site boundaries, and 18 acres of perimeter land outside of the project footprint. In approving the tentative cancellation, the Board of Supervisors determined that the cancellation was in the public interest, pursuant to section 51282(a)(2) of the Government Code. The tentative cancellation was found statutorily exempt from CEQA pursuant to Public Resources Code section 21080(b)(6) and section 15271 of the CEQA Guidelines (14 Cal. Code Regs., § 15271), which exempt early actions related to thermal power plants if an environmental document covering the actions will subsequently be prepared by a regulatory agency.

A Certificate of Tentative Cancellation was recorded on July 14, 2010. Additionally, a letter from the California Department of Conservation (DOC) dated May 27, 2010 states that DOC has no objection to the approval of the cancellation application by the Kern County Board of Supervisors. The Williamson Act restrictions over the tentatively cancelled acreage continue to remain in place until the conditions set forth in the Certificate of Tentative Cancellation are satisfied, including payment of the assessed cancellation fee, and recording of the final Certificate of Cancellation.

In September 2011, SCS Energy California LLC acquired 100 percent ownership of HECA LLC and modified the Project design to ensure its economic viability and to better serve market needs, while continuing to adhere to the strictest environmental standards. One of the modifications was a change to the Project Site boundaries to include some areas previously within the Controlled Area and to exclude other areas that were previously part of the Project Site. As depicted on Exhibit "E" to this application, the current Project Site and Controlled Area are now 453 acres and 653 acres, respectively, rather than the 473 and 628 acres that were presented in the 2009 Revised AFC. On May 3, 2012 HECA LLC filed an AFC Amendment with

the CEC which describes and analyzes the changes to the Project design, and supersedes previous AFC materials.

As a portion of the new Project Site remains encumbered by Williamson Act contract restrictions, to accommodate the Project HECA LLC is submitting this petition to cancel the Williamson Act contract restrictions over an additional 71.558-acre parcel (APN No. 159-040-02) as described and depicted in Exhibit "B".

Exhibit "D"

STATEMENT INDICATING WHY THE PROPOSED CANCELLATION COMPLIES WITH GOVERNMENT CODE SECTION 51282

The proposed cancellation complies with the requirements of Government Code section 51282, which governs County approvals of cancellation requests. Specifically, the proposed cancellation is in the public interest, in accordance with Government Code section 51282(a)(2), because other public concerns substantially outweigh the objectives of the Williamson Act (Gov. Code, § 51282(c)(1)), and because there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land (Gov. Code, § 51282(c)(2).)

I. The Proposed Cancellation Is In The Public Interest (Gov. Code, § 51282(a)(2))

A. Other public concerns substantially outweigh the objectives of the Williamson Act (Gov. Code, § 51282(c)(1))

The public concerns of energy supply, energy security, global climate change, water supply, hydrogen infrastructure, fertilizer supply and the economy substantially outweigh the objectives of the Williamson Act. The Project will demonstrate a first of its kind combination of proven technologies at commercial scale that can provide baseload low-carbon power that will make an essential contribution to addressing each of these public concerns and provide numerous public benefits at the local, state, regional, national, and global levels. Furthermore, the Project's production of low-carbon energy and its associated benefits may serve as a model to be implemented elsewhere in the world. As such, the finding set forth in Government Code section 51282(c)(1) is satisfied.

As described by the Department of Energy (DOE):

"The Project will be among the cleanest of any commercial solid fuel power plant built or under construction and will significantly exceed the emission reduction targets for 2020 established under the Energy Policy Act of 2005. In addition, emissions from the Project plant will be well below the California regulation requiring baseload plants to emit less greenhouse gases than comparably-sized natural gas combined cycle power plants. The CO_2 captured by the Project will enable geologic storage at a rate of approximately 3 million tons of CO_2 per year and will increase domestic oil production (DOE, 2011)."

Further, according to the DOE:

"A need exists to further develop carbon management technologies that capture and store or beneficially reuse CO_2 that would otherwise be emitted into the atmosphere from coal-based electric power generating facilities. Carbon capture and storage (CCS) technologies offer great potential for reducing CO_2 emissions and mitigating global climate change, while minimizing the economic impacts of

the solution. Once demonstrated, the technologies can be readily considered in the commercial marketplace by the electric power industry." (DOE, 2011)

Among the many public interests the Project will advance at the local, statewide, regional, national, and global levels, are the following:

- **Supplying Low-Carbon Electricity.** The California Energy Commission (CEC) estimates that the State will need to add over 9,000 MW of capacity between 2008 and 2018 to meet demand (CEC, 2007). The Project will meet California's increasing power demands by using hydrogen as a fuel source for electricity, thus providing a new low-carbon alternative source of energy. It will support a reliable power grid by providing baseload, dispatchable power to help back up intermittent renewable power sources, an essential component to meeting California's greenhouse gas-reduction goals for 2020 and beyond. Specifically, the Project will provide approximately 300 MW of new, low-carbon baseload electric-generating capacity, supplying power for over 160,000 homes. The Project has been awarded federal funds by the Department of Energy.

- **Capturing Green House Gas Emissions.** The Project will achieve approximately 90 percent CO_2 capture efficiency and prevent the release of approximately 3 million tons (roughly equivalent to the carbon dioxide output of 500,000 automobiles) per year of greenhouse gases to the atmosphere by sequestering them underground. Existing conventional power plants release carbon dioxide into the atmosphere, rather than capturing and using them for enhanced oil recovery (EOR). The Project will employ state-of-the-art emission control technology to achieve near-zero sulfur emissions and avoid flaring during steady-state operations. This will help California meet its important greenhouse gas reduction targets as set forth and exemplified by AB 32[1], AB 1925[2], and SB 1368[3]. The Project is also designed to support Executive Order S-3-05, which sets a State target of reducing greenhouse gas emissions to 80 percent below 1990 levels by 2050.

- **Water Supply and Quality.** The Project will help restore a local aquifer by using brackish water that currently threatens local agricultural uses. The Project's use of brackish water is expected to improve local lands for agricultural use by physically lowering the brackish water table and allowing fresh water to penetrate agricultural lands. In doing so, the Project will also conserve fresh water sources by using brackish groundwater for Project water needs. The Project will also eliminate direct surface water discharge of industrial waste water and storm water run off through use of Zero Liquid Discharge (ZLD) technology.

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[1] Assembly Bill 32 (AB 32) was passed to reduce greenhouse gas emissions to 1990 levels by 2020. AB 32 requires the California Air Resources Board ("CARB") to assign emissions targets to each sector in the California economy, and to develop regulatory and market methods to ensure compliance. The California Public Utilities Commission ("CPUC") and CEC have developed specific proposals to CARB for implementing AB 32 in the electricity sector, including a cap-and-trade program.

[2] Assembly Bill 1925 (AB 1925), a law passed in 2006, required the CEC to provide a report to the California legislature by November 2007 "with recommendations for how the State can develop parameters to accelerate the adoption of cost-effective geologic carbon sequestration strategies." This type of legislation clearly demonstrates California's commitment to supporting and encouraging in-state carbon capture and sequestration technology.

[3] Senate Bill 1368 (SB 1368), passed in 2006, establishes an Emission Performance Standard for greenhouse gas emissions from power plants used to serve baseload power in California, which was set by the CPUC at 1,100 pounds of carbon dioxide per megawatt hour of electricity. The intended effect of SB 1368 is to encourage low-carbon power production. The Project's greenhouse gas emissions will be below this threshold requirement.

- **Protecting Energy Security and Domestic Energy Supplies.** The Project will conserve and reduce stress on domestic energy supplies by using petcoke, an energy source that is currently exported overseas for fuel. Petcoke is a by-product from the oil refining process and is abundantly available. The Project will use petcoke in a new and clean manner by converting it to hydrogen, thus increasing energy diversity at a time when California and the nation are largely dependent on natural gas for power generation. In addition, the Project will produce additional energy from existing California oil fields by injecting CO_2 for EOR, helping California extract millions of barrels of oil each year. Conservation of the domestic energy supply will enhance energy security while at the same time reducing the carbon footprint of California's energy supply that would otherwise be increased by oil imports produced in foreign counties and transported across the ocean.

- **Promoting Hydrogen Infrastructure.** The Project will increase the supply of hydrogen available to support the State's goal of energy independence as expressed in California Executive Order S-7-04, which mandates the development of a hydrogen infrastructure and hydrogen transportation in California. The Project is poised to supplement the quantities of hydrogen necessary for these future energy technologies, and support California's role as a world leader in clean energy.

- **Producing Local Low-Cost, Low Carbon Footprint Fertilizer.** The Project will help reduce the carbon footprint of California's agricultural market by supplying an in-state source of low-carbon fertilizer thereby substantially lowering foreign imports of fertilizer to the United States. Currently, the vast majority of all California nitrogen-based fertilizer feedstocks are imported into the State. Due to these transportation costs, California nitrogen-based fertilizers are priced 20 to 30 percent higher than in other United States regions. Therefore, the presence of a nitrogen-based fertilizer producer is likely to benefit California consumers through increased competition and the lowering of transportation costs.

- **Stimulating the Local and California Economy.** The Project will boost the local and California economy with an estimated 2,500 jobs associated with construction and approximately 200 full-time permanent positions associated with Project operations. In addition, estimated indirect and induced effects of construction that will occur within Kern County could result in more than 4,000 jobs. This will represent a long-term economic benefit to Kern County.

Given these significant public concerns that will be advanced by the Project through its numerous public benefits, substantial evidence supports the finding set forth in Government Code section 51282(c)(1) that "other public concerns substantially outweigh the objects of the Williamson Act."

B. <u>There is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put (Gov. Code, § 51282(c)(2))</u>

The Project Site is located in a sparsely populated agricultural area near the Elk Hills Oil Field. The Project Site is contiguous land bounded by Adohr Road to the north, Tupman Road to the east, an irrigation canal to the south, and the Dairy Road right-of-way to the west. There are only a few homes within a mile of the Project Site and the unincorporated community of Tupman is 1.5 miles from the site. Primary access will be from Interstate 5, to Stockdale Highway west, to Dairy Road then south to Adohr Road. The topography of the Project Site is flat. The geology at the Project Site has been determined suitable for power plant construction.

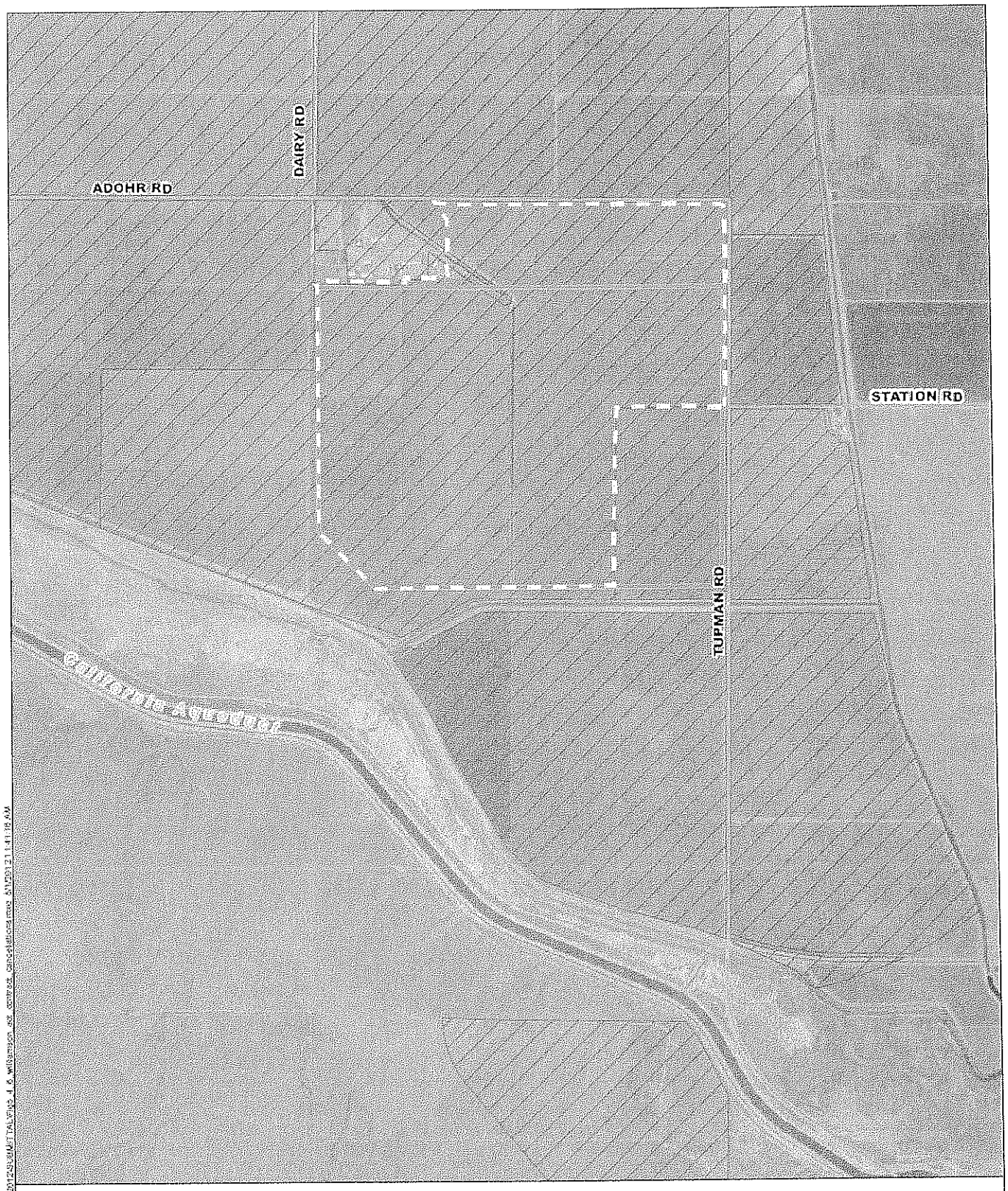
The Project Site was selected based upon, among other things, the available land, proximity to a carbon dioxide storage reservoir, and the existing natural gas transportation, electric transmission, and brackish groundwater supply infrastructure that could support the proposed 300 MW of baseload low-carbon power generation. The Project Site was also chosen for its reasonable proximity to Interstate 5, State Routes (SR) 58 and 119, and Stockdale Highway. The geology in the vicinity of the Project Site makes it one of the premier locations in the United States for CO_2 EOR and sequestration.

There is no noncontracted land proximate to the Project Site which is both available and suitable for the Project. With regard to availability, according to County Planning Department records (including the current Kern County Williamson Act Map), virtually all land in the proximity of the Project Site is either under Williamson Act contract or in the Tule Elk Reserve State Park.

With regard to suitability, as concluded in the 2012 and 2009 Revised Applications for Certification (AFC) for the Project filed with the CEC, there are no alternative sites that meet the highly specific site selection requirements of the Project discussed above. Prior to selecting the Project Site, HECA LLC submitted its initial AFC (08-AFC-8) to the CEC on July 30, 2008, which proposed the Project on a different site. HECA LLC subsequently decided to move the Project when it discovered the existence of previously undisclosed sensitive biological resources at the prior site. As a result, HECA LLC was required to conduct an alternative site analysis to identify an alternative site for the Project, which ultimately identified the general area of the Project Site. In the process, several possible alternative sites in the vicinity of the unincorporated communities of Buttonwillow and Tupman were considered. However, the alternative sites were rejected for various reasons, including (1) topography, (2) distance from the proposed carbon dioxide custody transfer point, (3) lengths of linear facilities, (4) sensitive environmental receptors and/or (5) land availability. In addition, each of these sites (with one exception), like the Project Site, were contracted under the Williamson Act.

In summary, no alternative sites were identified on either contracted or noncontracted land that were both available and suitable for the Project. As such, the finding set forth Government Code section 51282(c)(2) that "[t]here is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put" is satisfied.

EXHIBIT "E"



Project Site

Tentatively Cancelled Williamson Act Contracted Land[1]

Williamson Act Contracted Land

N

0 750 1,500 FEET

Note:
1. The Kern County Board of Supervisors adopted Resolution 2010-168 on June 29, 2010, approving the tentative cancellation of 491 acres of Williamson Act contracted lands.

HECA WILLIAMSON ACT CONTRACT CANCELLATIONS

April 2012 Hydrogen Energy California (HECA)
28068052 Kern County, California

URS

FIGURE 5.4-6