



May 30, 2013

Dave Warner
Director of Permit Services
San Joaquin Valley APCD
(via email)

ADDITIONAL COMMENTS IN OPPOSITION TO THE PROPOSED ISSUANCE OF DETERMINATION OF COMPLIANCE FOR HYDROGEN ENERGY CALIFORNIA

Dear Mr. Warner,

On behalf of our Kern County members and constituents including Spanish-speaking Latino residents living close to the site of the proposed Hydrogen Energy California (HECA) facility, we submit these comments to the Valley Air District in opposition to the proposed Determination of Compliance (DOC) for the HECA project:

We urge the district to not issue the Determination of Compliance for numerous reasons, including those stated in our May 28th comment letter raising issues of clearly defective and inadequate notice and inadequate translation which resulted in Spanish-speaking Latino residents being effectively excluded from meaningful participation in the Air District's public process.

The fact that your Spanish language notice instructed Spanish speakers to send their comments to a non-existent email address, while giving the correct address to English speakers, requires the Air District to initiate a completely new and correctly noticed public comment period.

Proceeding to issue a DOC despite the defective notice and inadequate translation of key documents would violate Title VI of the United States Civil Rights Act and California Government Code 11135, as the residents who are directly impacted by the defective notice and inadequate translation are a class of people protected by our state and federal civil rights laws. (See attachment).

In addition to the defective notice and translation concerns, there are numerous other reasons the PDOC should be rejected. The HECA plant would have a negative, significant and disparate impact on a protected class of people whose health is already being compromised by the current levels of pollution and who have had to bear a disproportionate amount of pollution in this area. Residents in the area of the proposed project are already exposed to terrible air quality in a non-attainment area, massive diesel truck traffic pollution, a Class I hazardous waste landfill, pesticides, fracking and other oilfield operations. The Air District's analysis failed to evaluate the cumulative impacts of the proposed project on a vulnerable population that already has significant pollution sources and health problems. The proposed approval of the HECA project which would add large amounts of new pollution from a coal and petcoke-burning experimental plant next to an environmental justice community that is heavily impacted by multiple pollution sources is unacceptable and reckless.

We endorse and incorporate Sierra Club's extensive comments on the PDOC that document serious procedural issues and environmental and health impacts of the proposed HECA project.

We are also alarmed by and do not accept the pro-HECA bias and callous and complacent stance the Valley District has taken regarding the health and well-being of Kern County residents who would be impacted by this project. For example, in the May 15th hearing, you agreed with a concerned resident that Kern County's air quality is one of the worst in the nation, agreed that pollution is shortening lives, and that you have probably never issued an approval for a dirtier power plant project¹- yet the District proposes to approve the DOC despite the clear pollution impacts on an already over-polluted population.

Further, as the Director of Permit Services, you demonstrated bias by an irrelevant and cavalier response to a concerned Tupman resident at the hearing by saying you'd rather live in Tupman after HECA was built than follow a diesel truck all the way up the I-5.² This comparison is ridiculous, and implies that residents should be happy having more pollution than they already have. Residents should not have to choose between being polluted by a diesel truck or a coal-burning plant.

The biased and defective permit process, and the PDOC, violate the core value of your agency which is "Protection of Public Health...protect(ing) the health of Valley residents through efforts to meet health-based state and federal ambient air-quality standards, based on science and prioritized where possible using health-risk reduction strategies."³

We call on the Air District to uphold your core value and mission, to comply with state and federal civil rights mandates, to follow applicable laws, and reject the HECA project.

We request and expect specific responses to each of the points raised in our comments.

For health and environmental justice,


Bradley Angel
Executive Director

¹ YouTube, *HECA hearing May 15, 2013 Buttonwillow, Kern County*
<http://www.youtube.com/watch?v=VzUsntJNMGI&feature=youtu.be> (last visited May 30, 2013).

² <http://www.youtube.com/watch?v=YAwSOLqh6aE>

³ San Joaquin Valley Air District, *About the District*, http://www.valleyair.org/general_info/aboutdist.htm#Mission
(last visited May 30, 2013).