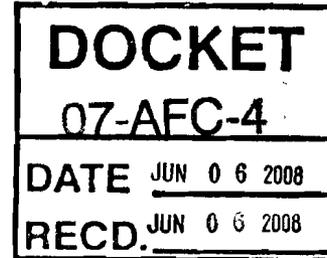


June 6, 2008

Mr. Christopher Meyer
Project Manager
California Energy Commission
1516 9th Street
Sacramento, CA 95814



Re: MMC Energy, Inc.'s Final Comments on the Preliminary Staff Assessment
Chula Vista Energy Upgrade Project (07-AFC-4)

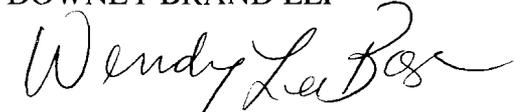
Mr. Meyer:

Attached are MMC Energy, Inc.'s ("MMC") final comments on the California Energy Commission Staff's Preliminary Staff Assessment ("PSA") for the Chula Vista Energy Upgrade Project ("CVEUP"). These final comments address the general text of the PSA, as well as the Conditions of Certification and other matters discussed at the May 12, 2008 PSA Workshop. Items where MMC and Staff reached clear agreement at the workshop are identified within these comments.

MMC greatly appreciates Staff's complete and thorough analysis contained in the PSA. We look forward to working with Staff to resolve the remaining permitting issues.

Sincerely,

DOWNEY BRAND LLP



Wendy Lee Bogdan

Attachment

WLB:np

931209.1

MMC Energy Chula Vista Energy Upgrade Project

MMC's Final Comments on the Preliminary Staff Assessment

General Comment

Pages 1-2, 3-1, 3-3, 6-2, construction and operation schedule – The PSA indicates in several places that the project would begin construction in fall of 2008, for commercial operation by the fall of 2009. This may be a misinterpretation of the AFC, which states that construction would begin in the 3rd quarter of 2008, would take 8 months, and that commercial operation would begin in the 3rd quarter of 2009. Thus, even if the project were to begin construction late in the 3rd quarter (September 30) and would take 8 months, the project could be on line by July 2009. Therefore, it is more accurate to say that the project would be on-line by the summer, instead of the fall, of 2009.

Executive Summary

P. 1-7, first bullet – *“The City of Chula Vista General Plan was revised after the City of Chula Vista permitted the existing 44.5 MW Chula Vista Power Plant. General Plan Policy E 6.4 states that the Agency [Chula Vista Redevelopment Agency] should “avoid siting new or re-powered energy facilities or other major toxic emitters within 1,000 feet of a sensitive receptor”. The project as proposed is inconsistent with the revised general plan and would require a Conditional Use Permit if licensed by the City of Chula Vista. Staff has reviewed the City of Chula Vista General Plan and the Special Use Permit issued for the Chula Vista Power Plant in 2000 and has proposed mitigation to address the inconsistency. With staff has proposed Condition of Certification LAND-1, the CVEUP would be in compliance with all LORS. This issue will be further addressed in the FSA.”*

Comment: This paragraph implies that the CVEUP would be inconsistent with General Plan Policy E 6.4, when Staff clearly indicates in the Land Use section (Section 4.5, Table 4), that CVEUP is consistent with this policy. Staff also indicates in Table 4 that the potential inconsistency has only to do with the need for a Conditional Use Permit and proposes Condition LAND-1 to resolve this. MMC requests that Staff clarify these findings in the Executive Summary.

Project Description

P. 3-4, Noteworthy Public Benefits, paragraph 1, sentence 2 – *“By upgrading an existing facility, the environmental impacts of constructing a new power plant and all the associated linear facilities in an undisturbed area can be avoided, as well as avoiding the operating of two smaller peaker power plants in the area.”*

Comment: The reference in this sentence to avoiding operation of two smaller peaker power plants is unclear. Does this refer to the existing Pratt & Whitney TwinPac on the current site (and the benefits of retiring older, less efficient technology). Please clarify.

Air Quality

Page 4.1-63, Condition AQSC-9 – This condition is redundant of California Air Resources Board (CARB) requirements. Under AB 32, CARB is required have all entities report 2008 emissions in 2009, so this condition is unnecessary. Furthermore, the CEC/CPUC have recommended the point of regulation to be the "deliverer", which is the power plant, for in-state generation. Therefore, all of this information and more will be provided to CARB.

Biological Resources

Condition BIO-4 - The project owner suggests the following addition to Condition BIO-4, allowing the Worker Environmental Awareness Training to be done as a video presentation. Staff indicated agreement to this change at the May 12, 2008 PSA Workshop.

BIO-4 The project owner shall develop and implement a CPM-approved Worker Environmental Awareness Program in which each of its employees, as well as employees of contractors and subcontractors who work on the project site or related facilities during construction and operation are informed about the sensitive biological resources associated with the project area. The Worker Environmental Awareness Program must:

1. Be developed by the Designated Biologist and consist of an on-site or training center presentation or video presentation in which supporting written material is made available to all participants;

Cultural Resources

Page 4.3-20, Condition CUL-3, Item #6 – The project owner suggested the following change to Condition CUL-3, Item #6. At the May 12, 2008 PSA Workshop, Staff indicated that they would propose alternative language requiring the project owner to identify three curation facilities that might accept collections from the site.

6. A statement that the project owner will pay all curation fees and a plan for obtaining curation services in the event of a significant find ~~copy of an agreement with, or other written commitment from, a curation facility to accept artifacts from this project.~~ Any agreements concerning curation will be retained and available for audit for the life of the project.

Page 4.3-24 Condition CUL-5, Verification item #2 states:

Daily, the CRS shall provide a statement that “no cultural resources over 50 years of age were discovered” to the CPM as an e-mail, or in some other form acceptable to the CPM. If the CRS concludes that daily reporting is no longer necessary, a letter or e-mail providing a detailed justification for the decision to reduce or end daily reporting shall be provided to the CPM for review and approval at least 24 hours prior to reducing or ending daily reporting. At least 24 hours prior to implementing a proposed change in monitoring level, documentation justifying the change shall be submitted to the CPM for review and approval.

The project owner suggests deletion of this item from the condition as unnecessary. Staff indicated agreement in principle with this change at the May 12, 2008 PSA Workshop.

Hazardous Materials

Page 4.4-22, Condition HAZ-2 - MMC suggests changing Condition HAZ-2 to acknowledge that the existing Chula Vista Power Plant has both a Business Plan and a Risk Management Plan that has been submitted and approved by the San Diego County Department of Environmental Health, Hazardous Materials Division (HMD) and recently (January 2008) updated. Because these documents assume 5,000 hours of project operation, beyond the number of hours for which the CVEUP will be allowed to operate, and the CVEUP will make use of the same equipment as the existing plant for ammonia handling, these plans should be considered applicable to the CVEUP.

HAZ-2 The project owner shall ~~concurrently~~ provide an updated Business Plan and a Risk Management Plan (RMP) ~~prepared pursuant to the California Accidental Release Program (CalARP)~~ to the San Diego County Department of Environmental Health, Hazardous Materials Division (HMD) and the CPM for review. After receiving comments

from the San Diego County DEH HMD and the CPM, the project owner shall reflect all recommendations in the final documents. Copies of the final Business Plan and RMP shall then be provided to the San Diego County DEH HMD for information and to the CPM for approval. **The project owner shall provide a copy of the current Risk Management Plan (RMP) prepared pursuant to the California Accidental Release Program (CalARP) to the CPM.**

Verification: At least thirty (30) days prior to receiving any **new** hazardous material on the site for commissioning or operations, the project owner shall provide a copy of a final Business Plan to the CPM for approval. At least thirty (30) days prior to delivery of aqueous ammonia to the site, the project owner shall provide the final RMP to the Certified Unified Program Agency for information and to the CPM for approval.

Page 4.4-24, Condition HAZ-8 – This standard condition requires either a security guard 24 hours per day and 7 days per week or plant operation personnel to be present at all times (plus perimeter security). The condition may be more appropriate for large base-load plants that have full-time operation. The CVEUP will have an operator present at most during business hours five days per week. At the May 12, 2008 PSA Workshop, Staff indicated that they would be willing to change the condition to permit remote monitoring of security cameras with motion detection equipment.

Land Use

Page 4.5-25, Condition LAND-1 – This condition calls for the project owner to submit a development plan to the City of Chula Vista for its review and comment, as well as to the Energy Commission's Compliance Project Manager for review and approval. This condition requires the development plan to include those elements normally required for permitting a similar project, including site plan, structural dimensions, design and exterior elevations, and proof of any required permits, such as building permits, engineering, grading, encroachment, and demolition permits, and a recycling and solid waste diversion report.

MMC suggests revising LAND-1 to remove the requirement that MMC submit "proof of any required permits, such as building permits, engineering, grading, encroachment, and demolition permits, and a recycling and solid waste diversion report" with the development plan. Approval of these types of permits cannot be gained without first obtaining approval of the development plan and issuance of a land development permit. (See Chula Vista Municipal Code § 15.04.100, land development permit required as prerequisite to a building permit.)

LAND-1: The project owner shall ensure that the project and its associated facilities are constructed and operated in compliance with the City of Chula Vista's Limited Industrial (I-L) Zone requirements, such as height limits, minimum design and performance standards (such as air quality best available control technology and noise abatement measures), landscaping requirements, and other applicable municipal code requirements.

The project owner shall submit a development plan for the site to the City of Chula Vista in sufficient time for review and comment and to the Energy Commission's Compliance Project Manager (CPM) for review and approval prior to the proposed start of construction. The development plan shall include all elements normally required for review and permitting of a similar project, including site plan, structural dimensions, design and exterior elevation(s), ~~and proof of any required permits, such as building permits, engineering, grading, encroachment, and demolition permits, and a recycling and solid waste diversion report (COCV 2008).~~

Verification: At least 90 calendar days prior to the start of construction, including any demolition, grading, or site remediation on the project site, the project owner shall submit the proposed development plan to the City of Chula Vista for review and comment and to the CPM for review and approval. The project owner shall also provide the CPM with a copy of the transmittal letter to the City of Chula Vista.

At least 30 calendar days prior to the start of construction, the project owner shall provide copies of any comment letters received from the local jurisdiction, along with any changes to the proposed development plan, to the CPM for review and approval.

MMC looks forward to working with the City of Chula Vista in complying with the remainder of LAND-1. MMC will demonstrate conformance with City zoning requirements for the I-L Zone, including performance standards, lot area and coverage requirements, setbacks, fuel restrictions, landscaping and site plans, architectural approval, offstreet parking and loading requirements, outdoor and trash storage restrictions, and enclosures and wall requirements.

Soil and Water Resources

Page 4.9-13, Water Resources, second sentence – *“The volume of water used per year would vary between 12.8 and 86 acre-feet depending on the amount of time CVEUP operates.”*

Comment: Staff earlier in the section acknowledges that 12.8 acre-feet is a likely annual average water use (based on the likely annual average operation of 600 hours per year), and that 86 acre-feet is a maximum annual water use that could only occur if the project were to operate at the maximum level allowed as stipulated in the air permit of 4,000 hours per year. Therefore, it might be more realistic to say that plant operation would vary between, say 300 and 900 hours per year and that, on that basis, the volume of water used might vary roughly between 6.4 and 19.2 acre-feet per year.

Page 4.9-14, Water Supply and Use, California Constitution, first sentence – *“Article X, section 2 of the California Constitution requires that the water resources of the state be put to beneficial use to the fullest extent possible and states that the waste, unreasonable use, or unreasonable method of use of water is prohibited.”*

Comment: The PSA goes on to say that the CVEUP’s use of water *“would not comply with the Constitution since fresh inland water would be consumed for process use.”* MMC respectfully disagrees with Staff’s assessment. The constitution states that waste and unreasonable use are prohibited. The CVEUP’s modest use of water for power generation is neither wasteful nor unreasonable.

Page 4.9-14, Water Supply and Use, Warren-Alquist Act – *“The Warren-Alquist Act promotes all feasible means of water conservation. The proposed project will use high-quality water instead of conserving high quality water. The project will use up to 86 acre-feet of high quality water per year. Therefore, staff believes that the CVEUP would be inconsistent with terms of the Warren-Alquist Act regarding the use of freshwater.”*

Comment: As stated above, the CVEUP’s likely average water use will be approximately 12.8 acre-feet, not 86 acre-feet, which is an unrealistic amount, based on the maximum permitted operation hours. The CVEUP will not use high quality water in a wasteful or unreasonable way and will use all feasible means of conservation and is therefore consistent with the Warren-Alquist Act.

Page 4.9-15, SWRCB Resolution 75-58 and Energy Commission's 2003 Integrated Energy Policy Report.

Comment: The PSA finds the CVEUP inconsistent with State Water Resources Control Board (SWRCB) and Energy Commission policies regarding the use of fresh inland waters for power plant cooling. The policies do not prohibit the use of fresh inland water for cooling, however. Instead, they strongly encourage the use of recycled or impaired waters where feasible. As stated in the AFC, the use of recycled or impaired water is not feasible for the CVEUP and unwarranted given the relatively small quantities of water used by a peaking power plant that will not use an evaporative cooling tower.

In addition, MMC points out that it has previously taken issue with Staff's depiction of the CVEUP's proposed water usage as against State policies in MMC's December 3, 2007 Objection to California Energy Commission Staff Data Request 40 ("Objection to Data Request 40"). MMC's Objection to Data Request 40 noted that the CVEUP is not a "powerplant" for purposes of SWRCB Resolution 75-58 and the Energy Commission's 2003 Integrated Energy Policy Report ("2003 IEPR"). SWRCB Resolution 75-58 applies only to "powerplants" defined as steam-electric power generating facilities. (See SWRCB Resolution 75-58 definition of "steam-electric power generating facilities" at 2.) The CVEUP would use a two-shaft gas turbine engine in a simple-cycle configuration, not a combined-cycle facility with steam-cycle or steam turbine and as such, the CVEUP would not be a steam-cycle power generating facility as used in SWRCB Resolution 75-58. Because SWRCB Resolution 75-58 does not apply to the CVEUP, the Energy Commission's 2003 IEPR also does not apply as it relies heavily upon SWRCB Resolution 75-58 in setting the Energy Commission's policy on power plant water use. MMC's Objection to Data Request 40 also noted that the three power plants referred to in the 2003 IEPR (at p. 39) are combined-cycle power plants with air-cooled condensers for the steam-cycle, not peaker facilities like the CVEUP. Staff did not respond to MMC's Objection to Data Request 40, therefore MMC believes the water use issue to be resolved. The project owner agrees with Staff's finding that the CVEUP would be consistent with all LORS regarding soil and water resources, as long as the Conditions of Certification are implemented.

Page 4.9-20, Condition of Certification SOIL&WATER-4 - This condition states that water use *"shall not exceed the annual water-use limit of 86 acre-feet without prior approval by the CPM. The project owner shall monitor and record the total water used on a monthly basis."*

Comment: CVEUP is a simple-cycle peaking power project and, as such, will use very little water. The maximum water use permitted and guaranteed by the Sweetwater Authority of 86 acre-feet per year matches the 4,000 hours per year of operation that is stipulated in the air quality permit. This quantity of water is very unlikely to be used in practice, however. As stated above, the likely water use would be more likely to range between 6 and 20 acre-feet per year. For these reasons, MMC believes it is unnecessary to have a condition that limits the project to 86 acre-feet per year and to record and report the project's water use on a monthly basis.

Traffic and Transportation

Page 4.10-20, Condition of Certification TRANS-2, Operation Staff Parking Plan – This condition may be unnecessary for the CVEUP, which would have a maximum of 2

operational staff present at a given time (operator and maintenance technician). Staff agreed to change this condition at the May 12, 2008 PSA Workshop.

Transmission System Engineering

Page 4.11-11 and 4.11-12, Conditions of Certification TSLN-1, -4 and -5 all refer to actions which are the responsibility of the utility, in this case San Diego Gas and Electric, in designing, building, and operating the transmission line that will connect the CVEUP with the Otay Substation. MMC has indicated that the utility, not MMC, is responsible for compliance with these conditions. Staff indicated at the May 12, 2008 PSA Workshop that they would modify the language of these conditions such that the project owner would be required only to obtain a letter or e-mail from the utility, indicating that the utility meets the applicable standards.

Visual Resources

Page 4.12-12, second full paragraph states *"Staff also notes that landscape screening depicted in the simulation of KOP 3 in the AFC depicts perimeter landscape screening at a highly unrealistic height and scale, representing a level of screening which would not be attainable in less than 10 to 20 years and which might not be feasible under recommended Conditions of Certification VIS-3 and BIO-10."*

Comment: The KOP 3 simulation may not be so unrealistic, given that it depicts the additional growth of trees that are already present on the site and that have attained at least 20 feet of height already. These can be seen in AFC Figure 5.13-4a (before construction of the CVEUP). The trees could conceivably reach this height within 5 or 10 years of CVEUP construction, given that the photograph was taken in 2006, the CVEUP will begin construction in late 2008 and will take more than a year to construct.

Page 4.12-17, second full paragraph states *"VISUAL RESOURCES Figure 9 depicts trees that partially screen the project along the southern boundary of the site. However, the trees are depicted at a height that would likely not be attained for a long period of time. In the simulation, they appear to be comparable in height to the exhaust stacks, or in the range of 50 to 70 feet high. Regardless of species selected, no trees would attain this height in less than 10 to 20 years."*

Comment: As stated above, the trees are currently in place and more than 20 feet high. It is therefore not unrealistic that these trees could reach 50 feet, assuming growth of 3 feet per year.

Page 4.12-28, Condition of Certification VIS-1, final paragraph – MMC suggests changing this condition to indicate that major equipment finishes would require Staff's approval before ordering only if the final finish treatment were ordered from the manufacturer. At the May 12, 2008 PSA Workshop, Staff indicated agreement in principle with this change.

The project owner shall not specify to the vendors the **final finish** treatment of any buildings or structures treated during manufacture, or perform the final treatment on any buildings or structures treated in the field, until the project owner receives notification of approval of the treatment plan by the CPM. Subsequent modifications to the treatment plan are prohibited without CPM approval.

Verification: At least 90 days prior to specifying to the vendor the **final** colors and finishes of the first structures or buildings **for which final finish will be applied** that are surface-treated during

manufacture, the project owner shall submit the proposed treatment plan to the CPM for review and approval and simultaneously to the City of Chula Vista for review and comment.

If the CPM determines that the plan requires revision, the project owner shall provide to the CPM a plan with the specified revision(s) for review and approval by the CPM before any **final finish** treatment is applied. Any modifications to the treatment plan must be submitted to the CPM for review and approval and simultaneously to the City of Chula Vista for review and comment.

Page 4.12-29, Condition of Certification VIS-2 – The project owner suggests revising the wording in this VIS-2 so that it is clear that it refers to exposure in public areas to light and glare, not to any light or lights that can be seen from beyond the facility property line. Staff agreed to this change at the May 12, 2008 PSA Workshop.

VIS-2 Consistent with safety and security considerations, the project owner shall design and install all permanent exterior lighting so that: a) **excessive light and glare from** lamps and reflectors **is minimized from public viewing areas** ~~are not visible from~~ beyond the project site, including any off-site construction laydown areas and security buffer areas; b) lighting does not cause excessive reflected glare; c) direct lighting does not illuminate the nighttime sky; d) illumination of the project and its immediate vicinity is minimized; e) lighting on the exhaust stacks shall be the minimum needed to satisfy safety and security concerns; and f) the plan complies with local policies and ordinances of the City of Chula Vista.

Page 4.12-30, Condition of Certification VIS-3 – This condition requires landscaping along the project's northern facility boundary. At the May 12, 2008 PSA Workshop, Staff indicated that this was a typographical error and that landscaping will be required only along the southern and eastern project boundaries.

VIS-3 The project owner shall develop a landscape plan that: a) reduces the visibility of the power plant structures; b) avoids species on the California Invasive Plant Council list of invasive species <www.cal-ipc.org>; and c) complies with the local policies and ordinances of the City of Chula Vista. Trees and other vegetation consisting of informal groupings of fast- to moderate-growing evergreens, shall be strategically placed along the southern, **and** eastern, ~~and northern~~ facility boundaries, as appropriate, and be of sufficient density and height to screen the power plant structures to the greatest feasible extent within the shortest feasible time. The landscaping plan shall exclude non-native species that could invade habitats of the Otay River Preserve.

Waste Management

Page 4.13-14, Condition WASTE-3 - The project owner suggests that Condition WASTE-3 be modified to recognize that the existing Chula Vista Power Plant has a United States Environmental Protection Agency (EPA) hazardous waste generator identification number. Staff agreed to this change at the May 12, 2008 PSA Workshop.

WASTE-3 The project owner shall ~~obtain~~ **provide a copy of the current** a hazardous waste generator identification number from the United States Environmental Protection Agency **to the CPM** prior to generating any hazardous waste during construction and operations.

Verification: The project owner shall keep a copy of the identification number on file at the project site and provide the number to the CPM in the next Monthly Compliance Report.

Geology and Paleontology

Page 5.2-20, Condition PAL-4, first paragraph – The project owner suggests that Condition PAL-4 be changed to allow for all worker training to be done through the use of a video module and brochure, consistent with the applicable Biological and Cultural Resources conditions. At the May 12, 2008 PSA Workshop, Staff agreed that, for a project of low paleontological sensitivity such as the CVEUP, this would be a reasonable change.

PAL-4 Prior to ground disturbance and for the duration of construction activities involving ground disturbance, the project owner and the PRS shall prepare and conduct weekly CPM-approved training for the following workers: project managers, construction supervisors, foremen, and general workers involved with or who operate ground-disturbing equipment or tools. Workers shall not excavate in sensitive units prior to receiving CPM-approved worker training. Worker training shall consist of an initial in-person PRS training during the project kick-off for those mentioned above. Following initial training, a CPM-approved video or in-person training may be used for new employees. The training program may be combined with other training programs prepared for cultural and biological resources, hazardous materials, or other areas of interest or concern. No ground disturbance shall occur prior to CPM approval of the Worker Environmental Awareness Program (WEAP), unless specifically approved by the CPM.

Alternatives

Page 6-1, last paragraph, to Page 6-2, first paragraph, states – *"MMC has executed a contract with San Diego Gas and Electric Company (SDG&E) to deliver 100 MW of peaking capacity to SDG&E's Otay Substation. In order to meet that contract, the applicant has stated that Energy Commission certification would be needed by October of 2008 (MMC 2007b, p. 1-9)."*

Comment: MMC suggests deletion of the above statement to reflect the fact that there currently is no contract between MMC and SDG&E. Staff misstated this in the PSA and MMC would like to make it clear that no contract currently exists with SDG&E.

Page 6-4, Potential Significant Impacts of the Project states – *"In addition, staff has determined that siting of the proposed CVEUP is inconsistent with the Chula Vista General Plan and would require a Conditional Use Permit (CUP) if it were being licensed under the city's jurisdiction."*

Comment: A reading of the Land Use section of the PSA (Section 4.5) shows that Staff has found that siting the CVEUP is consistent with the existing land uses in the area, previous City of Chula Vista permitting decisions, and with the intent of the General Plan and zoning ordinance. With the Conditional Use Permit, the siting of the CVEUP would be consistent with the General Plan.

Page 6-5, first paragraph, states *"Plans, policies, and ordinances of many local governments in the area either prohibit heavy industry (such as a power plant), discourage new heavy industrial facilities in areas currently devoted to heavy industry, or discourage expansion of heavy industry into areas where it is not currently the predominant land use."*

Comment: This sentence implies that a project like the CVEUP would be considered a heavy industrial use. A power plant is not necessarily considered a heavy industrial use, however, and is found consistent with Limited Industrial zoning by the City of Chula Vista and Staff's own analysis. Under many zoning codes, power plants are permitted uses in light industrial, industrial park, and other districts.

BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION FOR
THE CHULA VISTA ENERGY UPGRADE
PROJECT

DOCKET NO. 07-AFC-4

PROOF OF SERVICE
(Revised January 3, 2008)

INSTRUCTIONS: All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof of service declaration to each of the individuals on the proof of service list shown below:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 07-AFC-4
1516 Ninth Street, MS-14
Sacramento, CA 95814-5512
docket@energy.state.ca.us

Harry Scarborough Vice President MMC Energy Inc. 11002 Ainswick Drive Bakersfield, CA 93311 hscarborough@mmcenergy.com	Douglas M. Davy, Ph.D. Senior Project Manager CH2M Hill 2485 Natomas Park Drive, Suite 600 Sacramento, CA 95833 ddavy@ch2m.com
Steven Blue Project Manager Worley Parsons 2330 E. Bidwell, Suite 150 Folsom, CA 95630 steven.blue@worleyparsons.com	Jane Luckhardt, Esq. Downey Brand LLP 555 Capitol Mall, 10th Floor Sacramento, CA 95814 jluckhardt@downeybrand.com
Larry Tobias Ca. Independent System Operator 151 Blue Ravine Road Folsom, CA 95630 ltobias@caiso.com	Electricity Oversight Board 770 L Street, Suite 1250 Sacramento, CA 95814 esaltmarsh@eob.ca.gov

<p>California Unions for Reliable Energy (CURE) c/o Marc D. Joseph Gloria Smith Suma Peesapati Adams, Broadwell, Joseph & Cardozo 601 Gateway Blvd., Suite 1000 South San Francisco, CA 94080 mdjoseph@adamsbroadwell.com gsmith@adamsbroadwell.com spesapati@adamsbroadwell.com</p>	<p>City of Chula Vista, California c/o Charles H. Pomeroy Caren J. Dawson McKenna, Long & Aldridge, LLP 444 South Flower Street Los Angeles, CA 90071 cpomeroy@mckennalong.com cdawson@mckennalong.com</p>
<p>Environmental Health Coalition Diane Takvorian & Leo Miras 401 Mile of Cars Way, Suite 310 National City, CA 91950 DianeT@environmentalhealth.org LeoM@environmentalhealth.org</p>	
<p><u>ENERGY COMMISSION</u></p> <p>Jackalyne Pfannenstiel, Chair Presiding Committee Member jpfannen@energy.state.ca.us</p> <p>James D. Boyd, Vice Chair Associate Committee Member jboyd@energy.state.ca.us</p> <p>Raoul Renaud Hearing Officer rrenaud@energy.state.ca.us</p>	<p>Chris Meyer Project Manager cmeyer@energy.state.ca.us</p> <p>Kevin Bell Staff Counsel kbell@energy.state.ca.us</p> <p>Public Adviser's Office pao@energy.state.ca.us</p>

DECLARATION OF SERVICE

I, Lois Navarrot, declare that on June 6, 2008, I deposited copies of the attached **MMC's FINAL COMMENTS ON PRELIMINARY STAFF ASSESSMENT** 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 above.

OR

Transmission via electronic mail was consistent with the requirements of the California Code of Regulations, title 20, sections 1209, 1209.5 and 1210. All electronic copies were sent to all those identified on the Proof of Service list above.

I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in cursive script, appearing to read "Lois Navarrot", is written above a horizontal line.

Lois Navarrot