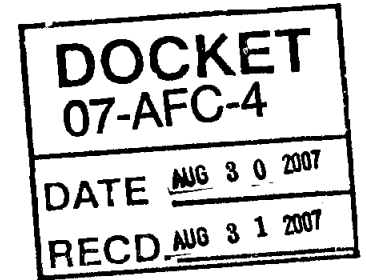


## CALIFORNIA ENERGY COMMISSION

1516 NINTH STREET  
SACRAMENTO, CA 95814-5512

August 30, 2007



Ms. Jane E. Luckhardt  
Downey Brand Attorneys LLP  
555 Capitol Mall, 10th Floor  
Sacramento, CA 95814

RE: **Cultural Resources Application for Confidentiality,  
Chula Vista Energy Upgrade Project,  
Docket No. 07-AFC-4**

Dear Ms. Luckhardt:

On August 21, 2007, MMC Energy, LLC (MMC) filed an application for confidentiality on behalf of the Chula Vista Energy Upgrade Project (Chula Vista) (Docket No. 07-AFC-4). The application seeks confidentiality for cultural resource information contained in Appendix 5.3C of the Application for Certification.

The application states, in part:

MMC requests that the attached Appendix 5.3C containing the CHRIS records search for cultural resources be kept confidential. The CHRIS records search simply identifies confidential cultural resources information, such as site location and content, and provides no other information. MMC further requests that the California Energy Commission ("Commission") keep this information confidential permanently.

A properly filed application for confidentiality shall be granted under the California Code of Regulations, title 20, section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the [Energy] Commission to keep the record confidential."

The California Public Records Act recognizes the confidentiality principles of federal law. (Gov. Code, § 6254(k).) The Archaeological Resources Protection Act establishes a clear, national legal policy that all types of archaeological, paleontological, and cultural resource site locations must be kept confidential in order to preserve them. (16 U.S.C. § 470hh.) Non-disclosure of cultural resources, such as the information that has been submitted with this application, is expressly in the public interest.

The information contained in Appendix 5.3C meets the requirements of confidentiality and is granted confidentiality in its entirety. Consequently, this information will be kept confidential for an indefinite period.

Ms. Jane E. Luckhardt

August 30 , 2007

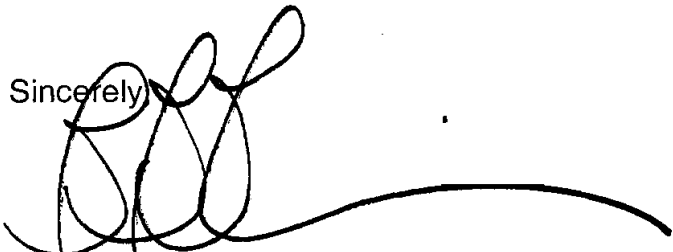
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Any subsequent submittals related to cultural resources can be deemed confidential as specified in this letter without the need for a new application under California Code of Regulations, title 20, sections 2505(a)(1)(G) and 2505(a)(4), if MMC files a certification under penalty of perjury that the new information is substantially similar to the information granted confidentiality by this determination.

Persons may petition to inspect or copy the records that I have designated as confidential. The procedures and criteria for filing, reviewing, and acting upon such petitions are set forth in the California Code of Regulations, title 20, section 2506.

If you have any questions concerning this matter, please contact Fernando De Leon, Senior Staff Counsel, at (916) 654-4873.

Sincerely,



B. B. BLEVINS  
Executive Director

cc: Docket Unit  
Energy Commission Project Manager