

DEPARTMENT OF FISH AND GAME

South Coast Region
4949 Viewridge Avenue
San Diego, California 92123
(858) 467-4201
FAX (858) 467-4235



December 18, 2007

Christopher Meyer, Project Manager
California Energy Commission
1516 Ninth Street, MS-15
Sacramento, CA 95814-5512

| |
|---------------------------|
| DOCKET 07-AFC-4 |
| DATE DEC 18 2007 |
| RECD. DEC 26 2007 |

Subject: Comments on Request for Agency Participation in the Review of the Chula Vista Energy Upgrade Project, Application for Certification (07-AFC-4)

Dear Mr. Meyer:

The Department of Fish and Game (Department) received the California Energy Commission's (CEC) letter dated October 17, 2007, concerning the Chula Vista Upgrade Project. The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (Sections 15386 and 15381, respectively). The Department is responsible for ensuring appropriate conservation of the state's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act and other sections of the Fish and Game Code. The Department also administers the Natural Community Conservation Planning Program.

The Department acknowledges the purpose and need given by your agency regarding the project; the replacement of the older and less efficient technology with more efficient and cleaner technology. While there appear to be few biologically sensitive resources on the actual project site due to its ongoing use as a commercial facility, the Department's main concern is with potential impacts to the Otay River Preserve (Preserve) located immediately adjacent to the project site to the South.

The Department offers the following general comments and recommendations to assist the CEC in avoiding, minimizing and adequately mitigating project-related impacts to biological resources and to ensure that the project is consistent with all applicable environmental requirements.

1. Non-reflective glass should be used on all windows exposed to avian flight paths to reduce the frequency of avian collisions with the proposed buildings. Avian collisions also occur when birds are attracted to or disoriented by indoor lighting shining out through windows at dusk and after dark. Therefore, we recommend that windows also be treated to prevent indoor light from shining through them. This would also help reduce the sky glow which disorients birds. We can provide information on technology available to meet these requests.

PROOF OF SERVICE (REVISED 11/21/07) FILED WITH
ORIGINAL MAILED FROM SACRAMENTO ON 12/26/07

Mr. Meyer

2. The applicant should ensure that development landscaping does not include exotic plant species that may be invasive to native habitats. Exotic plant species not to be used include any species listed on the Cal-IPC Invasive Plant Inventory list. This list includes such species as pepper trees, pampas grass, fountain grass, ice plant, myoporum, black locust, capeweed, tree of heaven, periwinkle, sweet alyssum, English ivy, French broom, Scotch broom, and Spanish broom. A copy of the complete list can be obtained from Cal-IPC's web site at <http://www.cal-ipc.org>. Also, landscaping should not use plants that require intensive irrigation, fertilizers, or pesticides adjacent to preserve areas and water runoff from landscaped areas should be directed away from the biological conservation easement area and be contained and/or treated within the development footprint.
3. Best Management Practices should be exercised within the project area during all construction activities, including the following:
 - a. Employees should strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint.
 - b. To avoid attracting predators of sensitive wildlife, the project site should be kept as clean of debris as possible. All food related trash items should be enclosed in sealed containers and regularly removed from the site.
 - c. Pets of project personnel should not be allowed on the project site.
 - d. Disposal or temporary placement of excess fill, brush, or other debris should not be allowed within the Preserve boundary or waters of the United States or their banks.
 - e. All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities should occur in designated areas outside of Preserve boundaries or waters of the United States within the fenced project impact limits. These designated areas should be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering the Preserve or waters of the United States, and should be shown on the construction plans. Fueling of equipment should take place within existing paved areas greater than 100 feet from Preserve boundaries or waters of the United States. Contractor equipment should be checked for leaks prior to operation and repaired as necessary. "No-fueling zones" should be designated on construction plans.
 - f. If night construction is necessary, exterior night lighting shall be of the lowest illumination necessary for human safety, selectively placed, shielded and directed away from natural habitats (Preserve).

Mr. Meyer

The Department appreciates the opportunity to comment on this project. Please contact L. Breck McAlexander at (858) 467-4229 regarding Department review of environmental documents related to this project.

Sincerely,

A handwritten signature in black ink, appearing to read "Ed J. Pert". The signature is fluid and cursive, with a large initial "E" and a long, sweeping underline.

Edmund J. Pert
Regional Manager
California Department of Fish and Game

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: 11/21/07)

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-SPPE-1
1516 Ninth Street, MS-14
Sacramento, CA 95814-5512.
docket@energy.state.ca.us

APPLICANT

Harry Scarborough
Vice President
MMC Energy Inc.
11002 Ainswick Drive
Bakersfield, CA 93311
hscarborough@mmcenergy.com

COUNSEL FOR APPLICANT

Jane Luckhardt, Esq.
Downey Brand Law Firm
555 Capitol Mall, 10th Floor
Sacramento, CA 95814
jluckhardt@downeybrand.com

APPLICANTS CONSULTANT

Douglas M. Davy, Ph.D.
Senior Project Manager
CH2M Hill
2485 Natomas Park Drive, Suite 600
Sacramento, CA 95833
ddavy@ch2m.com

INTERESTED AGENCIES

Larry Tobias
Ca. Independent System Operator
151 Blue Ravine Road
Folsom, CA 95630
LTobias@caiso.com

APPLICANTS ENGINEER

Steven Blue
Project Manager
Worley Parsons
2330 E. Bidwell, Suite 150
Folsom, CA 95630
Steven.blue@worleyparsons.com

Electricity Oversight Board
770 L Street, Suite 1250
Sacramento, CA 95814
esaltmarsh@eob.ca.gov

INTERVENORS

*** California Unions for Reliable Energy (CURE)**

c/o Marc D. Joseph

Gloria Smith

Suma Peesapati

Adams Broadwell Joseph & Cardozo

601 Gateway Boulevard, Suite 1000

South San Francisco, CA 94080

mdjoseph@adamsbroadwell.com

gsmith@adamsbroadwell.com

speesapati@adamsbroadwell.com

*** 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

ENERGY COMMISSION

Jackalyne Pfannenstiel, Chair

Presiding Committee Member

jpfaunen@energy.state.ca.us

James D. Boyd, Vice Chair

Associate Committee Member

jboyd@energy.state.ca.us

Raoul Renaud

Hearing Officer

rrenaud@energy.state.ca.us

Chris Meyer

Project Manager

cmeyer@energy.state.ca.us

Kevin Bell

Staff Counsel

kbell@energy.state.ca.us

Public Adviser's Office

pao@energy.state.ca.us

DECLARATION OF SERVICE

I, Maria Sergoyan, declare that on December 26, 2007, I deposited copies of the attached, Comments on Request for Agency Participation in the Review of the Chula Vista Energy Upgrade Project, AFC (07-AFC-4) 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 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.



Maria Sergoyan