

Memorandum

Date: June 10, 2008

Telephone: (916) 654-4679

To: Chula Vista Energy Upgrade Project (07-AFC-4) file

From: California Energy Commission – Christopher Meyer
 1516 Ninth Street Project Manager
 Sacramento, CA 95814-5512

DOCKET	
07-AFC-4	
DATE	JUN 10 2008
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Subject: **CHULA VISTA ENERGY UPGRADE PROJECT (07-AFC-4) PUBLIC COMMENTS ON PSA FROM THERESA ACERRO, SOUTHWEST CHULA VISTA CIVIC ASSOCIATION**

Between May 12, 2008 and June 6, 2008, Theresa Acerro, President of the Southwest Chula Vista Civic Association (SWCVCA), filed a general comment letter on the Preliminary Staff Assessment (PSA) and twelve additional letters with comments related to specific sections of the PSA. On June 5, 2008, Theresa Acerro submitted revised versions of the comment letters on air quality, alternatives analysis, and hazardous materials management. Attached to this summary memorandum are all the final comment letters as revised by Theresa Acerro (56 pages in total).

Some of the comments are on general technical areas rather than on specific information provided in the PSA sections. Due to this, a few of these comment will need to be addressed in technical areas other than the one identified by the SWCVCA letter. The following table provides a cross-reference for where SWCVCA comment letters will be addressed in multiple technical areas in the Final Staff Assessment.

Southwest Chula Vista Civic Association - Comment Letters Cross-Reference

SWCVCA Comment Letter	Energy Commission FSA Technical Section
6/16/08 – Executive Summary Letter	<ul style="list-style-type: none"> Executive Summary Socioeconomics
5/25/08 – Air Quality Section Letter	<ul style="list-style-type: none"> Air Quality Public Health
5/28/08 – Hazardous Materials Letter	<ul style="list-style-type: none"> Hazardous Materials Management
5/18/08 – Land Use Section Letter	<ul style="list-style-type: none"> Land Use Air Quality Hazardous Material Management Project Description Socioeconomics Visual Resources
6/04/08 – Socioeconomics Letter	<ul style="list-style-type: none"> Socioeconomics Land Use Project Description
6/04/08 – Public Health Letter	<ul style="list-style-type: none"> Public Health Noise and Vibration
6/06/08 – Transmission Line Safety and Nuisance Section letter	<ul style="list-style-type: none"> Transmission Line Safety and Nuisance Transmission System Engineering



SOUTHWEST CHULA VISTA
CIVIC ASSOCIATION

PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

5/12/08

California Energy Commission,

I have yet to read the entire PSA, but just the parts I have read cause me to be extremely disappointed. We had hoped that public comments and concerns would have been a major concern, but obviously politics is more important than protecting the residents of our community. It is also upsetting that the report is so biased instead of at least attempting to take a neutral position and backing up positions with facts.

Executive Summary

I really object to the continuous references to this plant as having lower emissions than the existing peaker. If this were so there would be no need for emissions credits. There is a huge difference from being cleaner per megawatt and being cleaner per hour. The replacement plant, which will be a totally NEW plant, will be dirtier per hour for Vox, Sox and particulate matter, according to the information provided. This is a very serious concern. This simply should not be allowed. Reducing emissions at Heartland Meat should be done anyway and is totally unrelated to the pollution caused by this plant. Also Heartland is not the major polluter in this area. The warehouse should never have been built adjacent to the housing. This is a violation of the CARB Land Use Handbook. The city and the developer are responsible for this problem and the remediation. MMC should not take away their obligation. This is NOT an acceptable plan.

The existing fence and sound attenuation wall will become even more inadequate than they are now, because the new plant will be further north and the sound wall is only at the southern end. It is absolutely useless for protecting the new businesses. The chain link fence with slats is a joke. Any child can climb it and since there is no one there the majority of the time this is an extremely dangerous situation. The location of the plant is such that no one would be aware of anyone entering it at night and/or weekends. Ammonia, natural gas and oil on site would make quite an explosion if an incendiary device or two were placed in the right places. We saw what happened at the Federal Courthouse last weekend and that is on a busy street with security guards. This is just too close to other businesses and homes to allow such a risk to exist in these post 9/11 times. A much better security plan in force 24 hours per day and a much better, higher fence with sound attenuation around the entire facility should absolutely be required at the minimum.

Reclaimed water is available at a reasonable distance or will be when the already permitted homes are built east of the landfill. Also there is talk of a sewage treatment plant in the area, which could also provide water. Why are we trying to save MMC money? If they were building this further east where the real demand is they would be very close to recycled water instead of targeting a lower income minority neighborhood to save money on infrastructure.

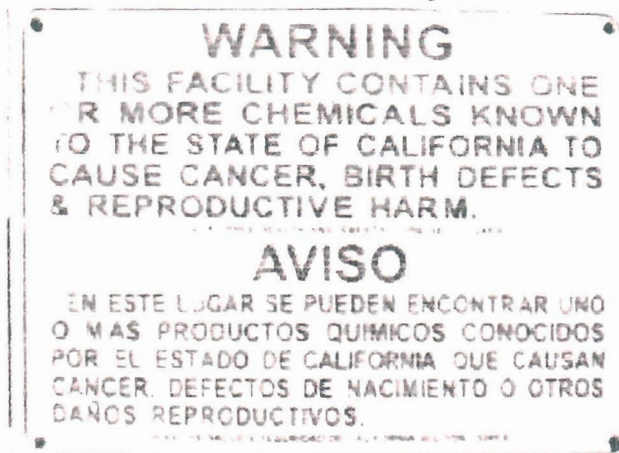
The LORS are not being met. This project violates the General Plan of Chula Vista for several reasons and several ordinances. When we were working on the General Plan Update we were aware of this peaker and wanted to be sure this particular peaker was not enlarged or replaced with another peaker. The policy in the General Plan specifically refers to this peaker. *E 6.4 Avoid siting new or re-powered energy generation facilities and other major toxic air emitters within 1,000 feet of a*

sensitive receiver, or the placement of a sensitive receiver within 1,000 feet of a major toxic emitter. This has nothing to do with whether staff thinks the peaker is a major polluter or not. The members of the Open Space and Environmental Committee considered it a major polluter and an unwanted use that must be eliminated. Unfortunately, as with the rest of the General Plan, staff refused to use stronger, more precise language.

There is also an Environmental Justice section in our General Plan that states: **E**

23.3 Avoid siting industrial facilities and uses that pose a significant hazard to human health and safety in proximity to schools or residential dwellings. The fact that the state of California requires the posting of a warning sign on this facility, a hazardous materials management plan and a business plan indicate that it poses a significant hazard to human health and safety.

Another General Plan Objective states:



Objective - E 20
Ensure that facilities using, storing, and handling hazardous materials and waste do not result in significant adverse effects to existing and planned surrounding land uses. The situation around this plant now is totally different than

in 2001 when it was surrounded by junkyards and other storage facilities with a variety of hazardous materials. Now to the west and soon to the east are large meat processing plants. To the east is an upscale design studio and a print shop. These businesses depend upon client visits. A facility such as a peaker plant with a cheap chain link fence with slats and two 70 foot tall smoke stacks will likely have a significant adverse effect upon these businesses just due to visual blight and public perception. Will international business people wish to attend workshops at a studio adjacent to something like this or come to drop off work or view show room samples? This is an incompatible land use with what is now adjacent to it. It was always incompatible with the homes and schools and the council realized that when RAMCOII was proposed, and fought it vigorously. The original plant was approved in a hurry without discussion of the nearby homes and schools. No one realized what it was until it was too late. Now we know and we want it gone.

Power Plants of any kind are a non-conforming use in a limited industrial zone. They are meant for a heavy industrial zone according to the city's zoning ordinances. 19.46.010 Purpose.

The purpose of the I zone is to encourage sound industrial development by providing and protecting an environment exclusively for such development, subject to regulations necessary to insure the purity of the airs and waters in Chula Vista and San Diego County, and the protection of nearby residential, commercial and industrial uses of the land from hazards and noise or other disturbances. (Ord. 1281 § 1, 1970; Ord. 1212 § 1, 1969; prior code § 33.514(A)).

19.46.020 Permitted uses.

Permitted uses in an I zone are as follows:

A. Any manufacturing, processing, assembling, research, wholesale, or storage uses except as hereinafter modified;

B. Automobile and metal appliance manufacturing and assembly, structural steel fabricating shops and machine shops;

C. Brick or pottery manufacturing and stone or monument works;

D. Trucking yards, terminals, and distributing operations;

E. Electrical generating plants and liquefied natural gas plants;

*F. Temporary tract signs, subject to the provisions of CVMC 19.58.320 and 19.60.470;**

This peaker plant is a non-conforming use in a limited industrial zone and as such:

19.64.050 Enlargement, extension or reconstruction prohibited –

Exceptions.

A nonconforming use shall not be enlarged, extended, reconstructed, substituted or structurally altered, except in conformity with the order of a duly constituted authority, unless the use is changed to a use permitted in the zone in which such building or premises is located, and except as set forth in CVMC 19.64.060 through 19.64.180. (Ord. 1212 § 1, 1969; prior code § 33.1102).

Code Enforcement has a policy of encouraging the phase out of non-conforming uses by not allowing them to do anything to improve their property while citing them for inadequacies. They are persecuting our small, local, longtime businesses for painting their offices. This expansion clearly is a violation of the SUP issued in 2001 and **would not be allowed by the city for any other business.** Nowhere in the SUP is expansion mentioned or encouraged. What is mentioned and has not been done is a total upgrading of the pollution control equipment and generators every two years. This plant is actually in violation of this and should receive a notice of violation from Code Enforcement if the city had a policy of fair and equitable code enforcement, which it does not.

On page 20 “public benefits” are mentioned. The information is inaccurate and misleading. The southwest redevelopment area has a 40% for RDA, 20% for schools, 20% for county 20% for affordable housing allocation formula. The amount of money from property tax to the RDA, which spends 85% of its money on debt service and salaries to no benefit at all to the community, is much lower than what the document shows. The amount of tax to the city is exactly what it now receives, since this is a redevelopment area and, therefore, is irrelevant. The eight- month construction fee of \$8.9 million is not a benefit to the city, since most if not all of these people are specialized workers MMC will bring in from the crews used to build their other facilities. The only way this would benefit Chula Vista is if 100% of the workers lived in Chula Vista and received prevailing wages or better and in any case the “benefit” would be extremely short term. As far as sales tax goes another use on this property could easily far exceed this amount without the negative environmental and social impacts. This is another attempt to mislead the public, which is unacceptable in a document authored by state employees.

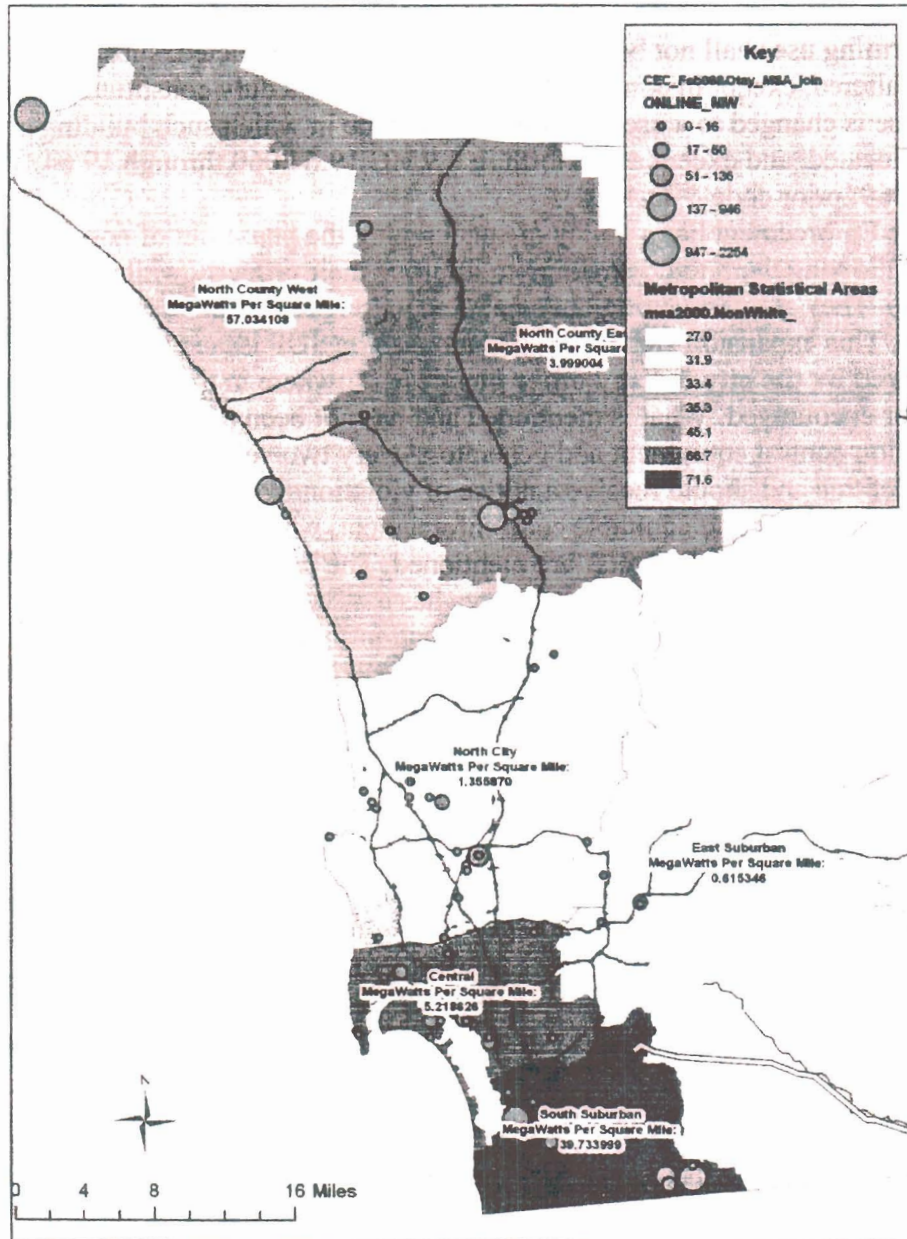
The constant reference to emission reduction credits does not in anyway answer the objection to the lack of a renewable, sustainable energy component to this project. All it does is highlight the fact that the proposed plant is dirtier than the existing plant and that the city still does not have a long term sustainable energy policy in force.

The 55 houses within 350-500 feet of this plant are **NOT** in a redevelopment area or a focus area of the General Plant Update. They are **NOT** in an area of change. They are a collection of families living in an area where it is safe to let children play in the streets with their friends and everyone knows their neighbor even if they are not related. Most of the long term residents are related. They have a right to equitable treatment. They have a right to expect the government to protect them from uses like this. They have a right to be heard and respected.

This New York Company 's profit should NOT be more important than their peace of mind. Maybe it would cost a bit more to build at the landfill or further east, but

it would be possible, and it would be closer to where the real load is. We don't have air conditioning. We don't use the amount of electricity that the homes in the east do; yet our area already produces almost 40mw per square mile of power and has 71.6% people of color. This new facility should be put in one of the areas producing less, not here.

MegaWatts Per Square Mile & Percent NonWhite by Metropolitan Statistical Region



Sources: CEC (Power plants)
SANDAG: MSA map layer

Feature edit map.mxd
Environmental Health Coalition, 2008.

Sincerely,

Theresa Acerro,
President, Southwest Chula Vista Civic Association and local resident



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

6/6/08

RE: Comments on **Executive Summary Section** of the PSA:

NOTEWORTHY PUBLIC BENEFITS

1. The proposed project would upgrade an existing power plant with a more efficient, less polluting, and quieter facility, addressing complaints received from the local residents on the current operation of the Chula Vista Power Plant. P3-4

We strongly disagree with this statement. The existing power plant lost its permission to operate in Chula Vista when it shut down for more than 12 months. It actually shut down for almost three years. No one expected it to ever restart. MMC has illegally run it a few times, but this will be stopped by the city once the city attorney's staff finishes evaluating the situation.

CLEARLY THE CVEUP AND THE EXISTING PLANT ARE NON-CONFORMING USES AND AS SUCH ARE A PRIORITY FOR ELIMINATING FOR CODE ENFORCEMENT. (On May 13th we were told that code enforcement was trying to eliminate all the non-conforming uses from this zone. Brad Remp is the assistant planning director overseeing code enforcement, who made this clear to several used car dealers and their supporters on the steps of city hall on 5/13/08.) The small plant was and is non-conforming. The proposed plant being a "large generating plant," requiring upgrading of the substation is even more non-conforming and belongs in an I General Industrial Zone, NOT HERE.

19.64.010 Declaration of policy.

Many nonconforming uses within the city are detrimental to the orderly development of the city and adverse to the general welfare of persons and property, in that said nonconforming uses constitute a special benefit or monopoly. In conformance with good zoning practices, it is the policy of the city that nonconforming uses shall be eliminated as soon as it is economically feasible and equitable to do so. (Ord. 1212 § 1, 1969; prior code § 33.1101 (A)). 19-181 Chula Vista Municipal Code 19.64.080

19.64.070 Cessation of use defined – Time limits.

A use shall be deemed to have ceased when it has been discontinued either temporarily or permanently, whether with the intent to abandon said use or not.

A. Cessation of Use of Building Designed for Nonconforming Use. A building or structure which was originally designed for a nonconforming use shall not be put to a nonconforming use again when such use has ceased 12 months or more.

This peaker did not operate for two years. It was illegally restarted several times by MMC Energy. For any other business in the I-L zone this would be considered illegal. For this business it should also be considered illegal. By ceasing operations for more than

a year they voided their SUP and have been operating without a permit. They are a non-conforming use with no SUP. This is in violation of zoning codes and city code enforcement policy. This is not a replacement of an existing plant or one that is allowed to operate in Chula Vista so CVEUP is **NOT** a benefit to the city.

2. The applicant proposes to provide peaking power and quick start capability as dispatched by SDG&E during periods of high demand (MMC 2007b, AFC §§ 1.1.1, 2.1.15, 2.2.2.1)

This statement is untrue. SDG&E does not have a contract with MMC and does not want a contract with MMC. They have a contract with the ISO. There will be no benefit to the citizens of Chula Vista from this peaker. SDG&E says the peaking power is needed in north county not here.

3. The proposed project has important public benefits in the way of both fiscal and nonfiscal effects.

Any fiscal or non-fiscal benefits are highly exaggerated by MMC, and most likely untrue. There is no way that a 100 mw plant would have an assessed value of 80 million dollars. The existing 44.5mw plant is assessed at \$2,199,766. The land is assessed at \$2,055,521. (County Assessor tax records) The city General Fund makes about 14% of the 1% of the land assessment or \$3,437.59. The RDA make 40% of the 1% of the improvement value or \$19,643.35. (The existing peaker pays \$49,108.38 taxes per year.)

There is also no way that building one that cost 80 million dollars would make financial sense for MMC. One of MMC's people was asked by Jerry Scott at one of the meetings: "How much do you guys expect to make per hour on this peaker? The answer given was \$4,000. At \$4,000 per hour the peaker would have to run 1,000 hours per year for 20 years to just make back the capital costs. It would take over two years to pay the supposed construction payroll of 8.9 million dollars. It would take 3.6 years to pay for the supposed 18.5 million dollars supposedly to be spent on construction materials. It would take 312.5 hours of operation per year to pay for operation and maintenance supplies at 1.25 million dollars. Where is the profit in this? These costs must be way out of line with actual costs. CEC staff must get actual costs from existing peakers or leave this out entirely, but please stop believing MMC and do not include this nonsense in the final report.

Also note that in the Southwest Redevelopment area tax increment is distributed with this ratio: 40% to RDA, 20% to county, 20% to schools, 20% to affordable housing.

Even if these figures were true. This is not an adequate benefit to compensate for the negative effect upon the community character, health, and LORS of the city. One employee is not a benefit to the city. We need a lot of good paying jobs. 8 months of jobs will not help our local workers, who need full-time long-term living wage employment. It is also doubtful that much of what it takes to build an electrical power plant is available locally. The most expensive pieces of equipment are very specialized and likely only available in a few places in the country. We want to see a breakdown of equipment and exactly where it will be bought. This number of people for construction seems excessive. Will these people be paid a living wage? At least some of these jobs must be highly

specialized for the construction of a power plant. Does MMC have a regular crew that they use to construct these plants?

Sincerely,

A handwritten signature in black ink, appearing to read 'Th. Acerro', written in a cursive style.

Theresa Acerro
President of Southwest Chula Vista Civic Association



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

5/25/08

RE: Comments on Air Quality Section of the PSA for the public record:

Mr. Christopher Myers:

We object strenuously to the contention that buying emission credits in anyway mitigates the harmful health effects to us of the increase in emissions of this proposed “large generating facility.” Staff has not assessed the local impacts, because they have not looked at the spreadsheet the school district has that shows health problems at each of the schools in the District. It is relevant that the closest schools already have more respiratory problems. The historic pollution problems in the area are also relevant, but not mentioned.

It is also problematic that the APCD reporting station is so far away from this regional center of traffic congestion. The amount of truck traffic on Main Street is not found anywhere else in Chula Vista. We also suffer from the impacts of a bus terminal, the existing SBPP and a cement factory. The SBPP leaves an oily substance in hot tubs and pools and particulate matter on windowsills and in air filters whenever it operates. The cement factory actually leaves visible particulates on people’s cars and lawn furniture regularly. The amount of extra particulate contamination predicted for this proposed “large generating facility” is excessive and likely to compound existing health problems since the owners admitted on 5/12 that it is likely to run 800 hours per year, not 400 as they previously stated. <http://www.youtube.com/v/5y1GdmNfA3s>.

Page 4.1-26:

“AIR QUALITY Table 18

Applicant CVEUP Incremental Annual Emissions (CEQA Mitigation Basis)

	pollutant	tons	per	year
Emission Source	NOX	VOC	SOX	PM10/2.5
CVEUP Expected maximum Annual Emissions tons/year	5.66	1.12	1.03	3.01
Chula Vista Power Plant Emissions Baseline tons/year	1.3	0.07	0.2	0.5
Incremental Emissions Increase, tons/year	4.36	1.05	0.83	2.51

Source: CH2MHill 2008a, DR 2 and 3.

^a SO₂ annual emissions for the purposes of determining adequate CEQA mitigation are based on an annual average natural gas sulfur content of 0.25 grains/100 dry standard cubic feet, rather than the 0.75 grains/100 dry standard cubic feet basis shown in **AIR QUALITY Table 17** for the District’s permit emissions basis.

This table makes it very clear that there will be a large increase in emissions from this “large generating facility.” It is too close to schools and homes to be allowed here. It also is not needed as SDG&E has stated, which is why it does not have a contract with SDG&E. It needs to be put elsewhere where there is a need.

Actually, why are the existing plant's emissions even relevant to this issue? According to our zoning ordinances that plant no longer has the right to operate and if laws are enforced as they normally are, it needs to be dismantled and the ground returned to its previous state. This means this plant should be being treated here as a NEW facility, producing NEW emissions. The old plant as MMC's rep (Josie Calderon) stated on 5/27 "hardly operated for three years."

Staff is basing its conclusions upon erroneous assumptions. This study needs to be redone as though this were a brand new plant, because it is NOT an upgrade of an existing plant, since the non-conforming nature of the old plant has been phased out by city policy and ordinance as soon as it ceased operating for more than 12 months. The fact that MMC fired it up a few times illegally is irrelevant.

Staff used two main significance criteria in evaluating this project. First, all project emissions of nonattainment criteria pollutants and their precursors (NOx, VOC, PM10, and SO₂) are considered significant and must be mitigated. **It is not possible to mitigate these.** They add to our non-attainment. The only way to truly protect the health of residents is to not allow the plant.

We strongly disagree with the following statement. Every year new health effects are recognized for lower levels of pollution. Ultra-fine particulate matter does not even have a standard, but it is expected that it will prove to be a significant health risk. Current thresholds, especially at the federal level, but also at the state level are way too high to offer adequate protection. The alarming increase in allergies, asthma and other health problems is a clear indication of this. The southern part of San Diego County already has 30% more asthma cases than the rest of the county.

"The ambient air quality standards that staff uses as a basis for determining project significance are health-based standards established by the ARB and U.S. EPA. They are set at levels to adequately protect the health of all members of the public, including those most sensitive to adverse air quality impacts such as the aged, people with existing illnesses, children, and infants, and include a margin of safety."

This statement could be used in court to hold the CEC to blame if even one case of exacerbated illness occurs.

Although this is much better than any air quality report I have read in an EIR or MND we still believe that mitigating by buying credits is essentially selling our health to the highest bidder and is not acceptable. The Environmental Justice issue is that it is possible to pay a fee to mitigate affects to the health of the residents.

Another failing of this report which must be corrected is: **We would like to point out again that this is not and never was an SDG&E peaker.** SDG&E does not have, has not had nor does it wish a contract with this peaker. The contract is with the ISO for state energy needs and the plant must install two cut-offs to protect the transmission lines of SDG&E from possible over load from this plant. **The CEC needs to have a standard for whether a peaker is needed in a site or not.** This one is NOT, so it is impossible to mitigate its impacts.

Since this is not an SDG&E contracted peaker shouldn't the capacity and operation capacity figures be based upon a similar ISO peaker? One would think

it is quite possible that an ISO peaker would be called upon more often than an SDGE peaker, especially considering the condition of local transmission lines.

Table 25 is interesting and possibly very inaccurate since the particulate matter for the existing plant is not available and the existing plant did not run at all for two years as well as the fact that figures are being used for Larkspur that is contracted by SDGE, which CVEUP will not be. The existing plant needs to be omitted since it no longer legally exists and an ISO contracted similar plant needs to be used for comparison purposes.

The existing power plant has a requirement in its MND to upgrade the pollution control and the generator every two years. Why is the CEC not requiring that CVEUP totally upgrade to the newest available technology every two years or better yet as soon as the technology becomes available? The problem with the existing plant is they used a used generator and they never did the required upgrades. Actually shutting it down was better. CVEUP should not be allowed ever to operate with anything other than the highest and best technology available at the time. No plant in California should be allowed to operate with inferior technology.

If six miles is being used to determine cumulative impacts then two of the busiest ports of entry into the USA must be included-San Ysidro and Otay Mesa. Also most of Tijuana and a large part of National City and the Southbay Power Plant need to be included. This creates a very significant amount of background pollution, which likely is the reason for the high asthma rates in this area. There is an inversion layer in Otay Mesa that keeps the air quality at an extremely unhealthy level. 4.1-47 Why are worse case situations not being included? Why is the vague receptors for several miles used when previous six miles was used? Even if 3 miles was used the Southbay Power Plant is within 3 miles. Also was the Hanson cement plant included? It is a VERY significant source of particulate matter.

In regard to Greenhouse Gas Emissions. *This plant will produce between 7% and 25% of the entire CO produced in the city of Chula Vista. This will make achieving the desired reduction in CO extremely difficult for the city. As stated by Michael Meecham on 5/12/08 the carbon emissions from this plant would be between 7-and 25% of all the carbon emissions for the city. Since the city has signed the Kyoto Treaty and currently has an increase of 35% carbon emissions, this facility would have an extremely negative effect upon the total environment of Chula Vista and cause severe hardships for the citizens who will have to some how cut back 42-55% in order to have a chance of meeting our goal to lowering emissions to 1990 levels. <http://www.youtube.com/v/tlu2-GlqNIU>*

There will be a new regulatory document once adopted formally by the council in a few months:

<http://www.chulavistaca.gov/clean/conservation/Climate/ccwg1.asp>

Staff needs to enforce maximum emissions limits per hour, day and year. There needs to be some way of assuring that waivers will not be given as has been done in Escondido. The amount that the plant is being permitted for is way too high.

There is an Environmental Justice issue related to air quality, because CVEUP is being allowed to buy credits to mitigate its Air Quality impacts. This will not help the air

quality of the area at all nor will it protect the health of the near-by residents. \$34,752 is not going to change a significant number of diesel engines to cleaner fuel. The representative of MMC keeps saying large diesel trucks idling at Heartland Meat are a bigger pollution source than the peaker. Actually this is not a relevant or accurate argument. The point is the peaker is an unnecessary and unneeded additional source. Heartland Meat actually mostly uses box trucks not semis. These could be run on gasoline or replaced with gasoline ones. The city needs a new ordinance.

This plant is not needed or wanted here and should be rejected.

Sincerely,

A handwritten signature in black ink, appearing to read 'Th. B. Acerro', written in a cursive style.

Theresa Acerro
President
Southwest Chula Vista Civic Association



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

6/4/08

RE: Comments on Alternatives Section of the PSA for the public record:

First of all why in the world is one of the staff criteria connectability to the Otay substation? SDG&E has stated it does not need peaking power in the southbay. It does not have a contract with MMC, and it does not want a contract with MMC. Also on May 12 it was stated by MMC that they are going to have to install 2 cut-off breakers to insure that their peaker would shut down immediately in the event of a possible overload of the transmission lines, which they declined to upgrade.

<http://www.youtube.com/watch?v=F8OHAEHuWsQ> This would indicate that the peaking power is NOT needed in the Chula Vista area particularly not in the Otay part.

This criteria must be dropped from staff's evaluation of alternatives. Staff also needs to add sites in North County since this is where SDG&E (and the ISO) has stated it needs peaking power. MMC now has a contract with the ISO, indicating that it will be on call for statewide NOT LOCAL peaking power needs!!

<http://www.youtube.com/watch?v=TA5yuuBqW3M> Back in November MMC's engineer stated that this peaker could serve the same purpose located anywhere in the San Diego region. http://www.youtube.com/watch?v=2_aarWUROiU

This plant needs to be located somewhere else. It needs to serve some other substation in some isolated part of the county producing fewer megawatts than down here.

This site is only 3.5 acres, so why was staff using 4+ as a criteria to judge other sites? Again it is necessary for staff look in north county for a suitable site, perhaps using a map of substations. Chula Vista has numerous policies prohibiting heavy industrial uses such as power plants in a light industrial zone. Why is this more important elsewhere than here? (6-6) 4th and Main Street is a ridiculous choice for an alternative. It is an even worse site than the current one. Again the Otay substation should not be a criterium, since the peaking power is **not** needed here.

Staff Alternative C has a substation. Does it not for the two methane generators? There is no reason to connect to the Otay substation. The onsite substation could be enlarged. This site is closer to existing and planned non-potable water lines. Why couldn't the methane gas be used to power the peaker instead of natural gas? This would be cheaper, and it would be more sustainable. Inadequate analysis was done of this site, although again there is no reason to fixate on the Otay substation, which by the way the exact upgrades this project would require **must** be revealed, since this substation is already considered a public nuisance at the size it is. It is noisy. There has been at least one fire caused by a balloon. There is great concern about its negative health effects upon residents and students. It is ugly, and no one wants to see it enlarged. This is another negative of building a 100mw peaker anywhere near by. Exactly how will the appearance of this substation be changed? We have a right to know in detail before anything happens here.

Table 6-9 needs to be redone, not using the Otay substation. There is now a substation in Bonita near 125. Someone needs to look at a map of substations in northern and eastern San Diego County. There certainly are substations in Otay Mesa. Mel Ingals offered 10 acres he owns down there at the November meeting.

6-11 is not correct, according to SDGE they have no need of CVEUP and do not have and do not want a contract with it. This statement of selection needs to be removed from the FSA.

Renewable Energy

This is an inadequate analysis because it is not considering putting solar collectors on the flat roofs of all the commercial and industrial buildings in the southwest, which likely would be over 500 acres. Having solar producing up to 100mw of energy continuously during the day time would provide much better reliability than a quick start peaker. It would actually make the peaker even more unnecessary than it already is.

100mw of peaker power is not needed in the southbay, according to SDG&E and our mw map. This is a figure to provide the amount of profit MMC wants to make. It is irrelevant and should not be being used in the analysis of alternatives.

The objectives of this project are not correct since there is no need for this peaking power in the southbay. We already generate nearly 40mw per square mile, which is way more than other areas of San Diego do using natural gas and/or landfill gas. The need clearly is north and east in the county.

No Project Alternative

This is clearly the superior alternative. 6-13 is incorrect. MMC cannot continue to operate the existing facility, because this would be a violation of CVMC 19.64.070 Cessation of use defined – Time limits.

A use shall be deemed to have ceased when it has been discontinued either temporarily or permanently, whether with the intent to abandon said use or not.

A. *Cessation of Use of Building Designed for Nonconforming Use. A building or structure which was originally designed for a nonconforming use shall not be put to a nonconforming use again when such use has ceased 12 months or more.*

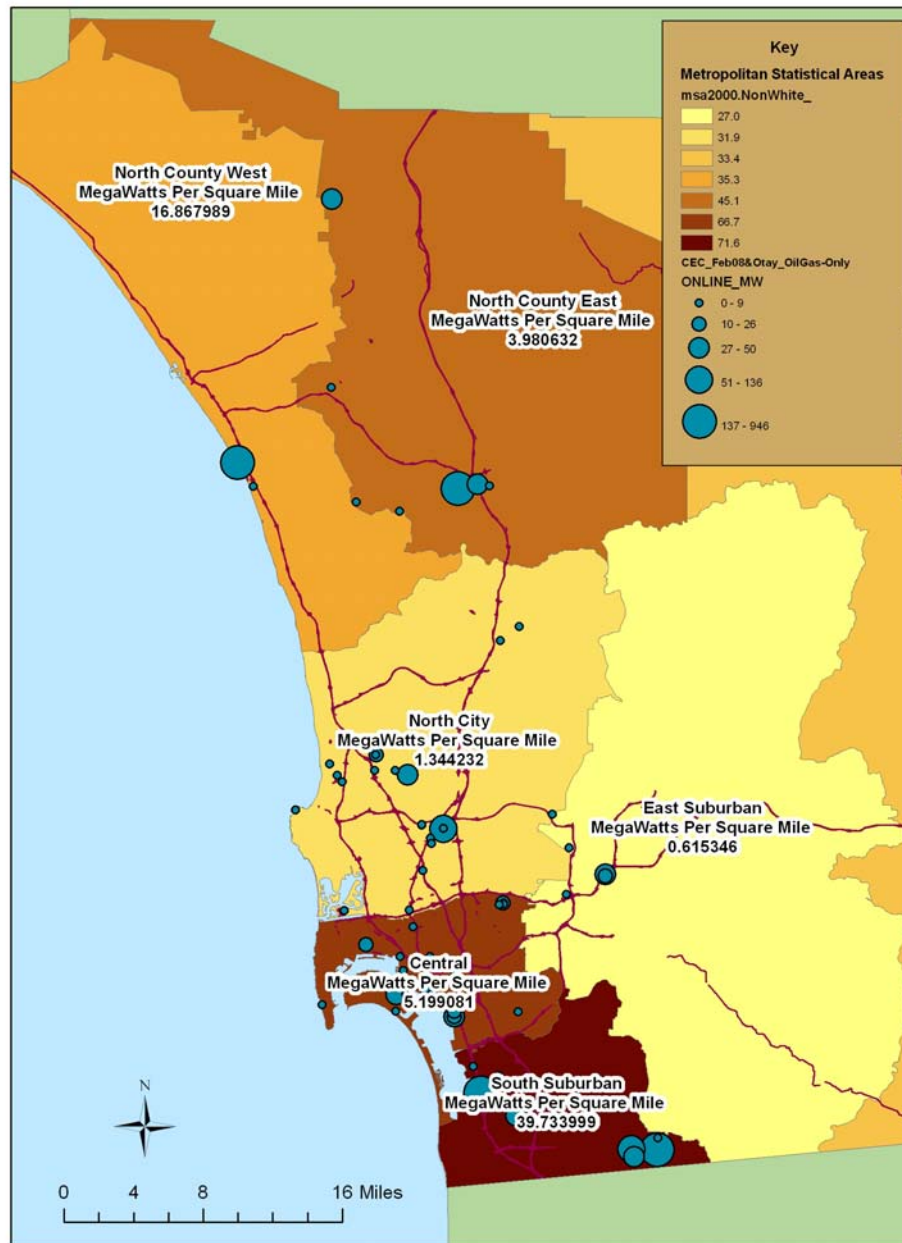
This peaker did not operate for two years. It was illegally restarted several times by MMC Energy. For any other business in the I-L zone this would be considered illegal. For this business it should also be considered illegal. By ceasing operations for more than a year they voided their SUP and have been operating without a permit. They are a non-conforming use with no SUP. This is in violation of zoning codes and city code enforcement policy. City ordinance specifically says that electrical generating plants belong in a heavy industrial zone. This is a light industrial zone. A peaker is a non-conforming use and it is city policy to eliminate non-conforming uses. It is also the policy of code enforcement to require that the site be returned to bare ground before the code violation case is closed.

CVMC 19.64.010 Declaration of policy.

Many nonconforming uses within the city are detrimental to the orderly development of the city and adverse to the general welfare of persons and property, in that said nonconforming uses constitute a special benefit or monopoly. In conformance with good zoning practices, it is the policy of the city that nonconforming uses shall be eliminated as soon as it is economically feasible and equitable to do so. (Ord. 1212 § 1, 1969; prior code § 33.1101 (A)). 19-181 Chula Vista Municipal Code 19.64.080

SDG&E has said that there is no need for peaking power in the southbay as the map below shows. ISO has said the the RMR status of the SBPP will not be removed unless Otay Mesa comes on line and either two peakers further north or The Sunrise Powerlink come on line. In any case it will not close before 2010. CVEUP has no relationship to closing SBPP. This statement needs to be removed from the FSA. Therefore, staff's conclusions are not correct and need to be rewritten for the FSA.

MegaWatts Per Square Mile and Percent NonWhite Population, Natural Gas & Landfill Gas Facilities Only



Sources: CEC (Power plants)
SANDAG: MSA map layer

Feature edit map.mxd
Environmental Health Coalition, 2008.

Sincerely,

Theresa Acerro
President of Southwest Chula Vista Civic Association.



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

6/6/08

RE: Comments on **Biological section** of the PSA:

Lay Down Site

First and foremost if the pallet site is used for a lay down and parking site, it should be restored to **Diegan coastal sage scrub** and monitored for a minimum of five years to assure 90% survival of all the plants and establishment as a viable habitat for animals living in the river bottom. This is a conservation area that was illegally degraded in the past, but it needs to be restored if someone is to benefit from its former destruction. Also this would provide a buffer for the OVRP adjacent to this site.

Construction Site

The southern part of the site will be abandoned. The pavement needs to be removed from this site to compensate for the greater area to be paved to the north. The southern part of the site needs to be planted with native Diegan Coastal scrub and maintained as a viable habitat with a water source as per the guidelines of the city's Naturescape Habitat program. This site should be monitored and maintained as native landscaping for the benefit of native wildlife in perpetuity.

Absolutely no construction activity producing noise should be allowed during nesting season.

Air Toxins

CEQUA requires that the maximum amount of hours the project is permitted for be used in determining impacts, not some imaginary supposition (San Joaquin Raptor Rescue Center v County of Merced, 149 Cal. App. 4th 645 (2007)). This means a significant effect upon the biological resources in the river park could be caused by this facility. The number of hours per day, week and year must be strictly limited with a guarantee that no waivers will be granted for any reason or preferably certification should be denied.

Bird Collisions

It is an incorrect statement that the likelihood of these would be low, since there are migratory birds using this area and there are also birds that frequent the bay which fly back and forth from the various ponds in the river bottom. At 70 feet tall the smokestacks are the highest things in the area. They are wide enough and if they have lights on them are likely to attract and confuse birds flying into and out of the habitat area to the south. Precautions need to be taken to avoid bird collisions. The plant will be required to use native plants, which will provide food and some habitat. The residential to the west have

lush gardens attracting a large number of neighborhood birds. It is not true that birds will avoid the area.

Cumulative Impacts

There was no mapping error. The city should not initiate a process for excluding this proposed lay down area from the MSCP. It needs to be restored to habitat or mitigated at a 2:1 basis, as any other business would be required to do that wished to expand into the MSCP area. There is at least one local business, which wanted to expand and was required to do this. The city has an obligation to treat all businesses equally, not play favorites. Allowing this would be an unfortunate and discriminatory action on the part of the city of Chula Vista and a bad precedent.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Acerro', written over a light gray rectangular background.

Theresa Acerro
President of Southwest Chula Vista Civic Association.



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

6/6/08

RE: Comments on **Cultural Resources Section** of the PSA:

We don't know who did the research for this section, but they left out the Lorenzo Anderson House, 3497 Main Street, which is less than 500 feet from the project site. It is hidden by trees, but it is exquisitely well preserved and has museum quality furnishings inside of it. It is often on the Chula Vista Historical Homes tour. This is clearly over 49



years old and of even more significance because it is one of the very, very few preserved homes in the Southwestern part of Chula Vista from its farming past. It shares the parcel of Paxton Towing. It is number 69 on Chula Vista's list of Historic Homes.

There is also a church over 100 years old, which survived the Hatfield flood. It is within a half mile of this project and is the only survivor of the Hatfield Flood. It is on the corner of Zenith and Third.

The Otay Baptist Church was built in 1890. It is at the corner of Zenith and Third Avenue in southwestern Chula



Vista. It is one of the few buildings to survive the Hatfield flood that burst the Otay Dam in 1916. It is an important reminder that there once was a thriving town of Otay. It has not been used for church services since the 1960's. It costs around \$3,000 a year in upkeep. The congregation has offered it to the city of Chula Vista. See http://www.signonsandiego.com/uniontrib/20051113/news_1m13church.html for a discussion of the controversy surrounding this building. <http://content.cdlib.org/ark:/13030/kt0f59q5c0/?docId=kt0f59q5c0&layout=printable-details> There is a picture of the church taken in 1940 at this site.

These two very significant historical buildings give us the hope of one day being able to have an historical park or an old town Otay tourist attraction somewhere in this vicinity.



A polluting peaker power plant with its two 70 foot towers will not allow this to ever happen. There is also the concern that the pollution from the peaker will degrade the Anderson house, which has been so lovingly kept up over the years.

The significance of these buildings to the history of Otay town needs to be acknowledged, and there is no way to mitigate the negative effect of certifying a peaker plant so close to them.

They need to be cherished and preserved as a reminder of the past glory of the area. Placing a heavy industrial use so close-by

debases there in situ value.

CEC staff must help us preserve what is left of the heritage of our community by rejecting this peaker project at this location.

Save Our Heritage Organization (SOHO

<http://sohosandiego.org/reflections/2006-2/otay.htm>) said

it very well, when they added the Otay City to their most

endangered historical places list in 2006:

Otay City

The last vestiges of this once-proud western boom town, which boasted the most modern watch factory in the West, the famous Daneri winery, a Wells Fargo Office, a railroad and a street of false



front buildings surrounded by Victorian homes and farms, is being threatened by a theme-park scheme in nearby Chula Vista.

Whatever was left by the Hatfield Flood of 1916 and decades of commercial development may now be wiped out by insensitivity and indifference. All that remains of this important San Diego community are four scattered Victorian houses, the brick Wells Fargo/post office and two churches. A new industrial development threatens two of the four homes and the churches, easily the most prominent landmarks, are being threatened with relocation. If these two projects are allowed to proceed, all sense of place will disappear and the knowledge of this important part of San Diego County's history will fade from memory and be lost forever.

Sincerely,

Theresa Acerro
President of Southwest Chula Vista Civic Association.



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

5/28/08

RE: Hazardous Materials Section of the PSA for the public record:

Mr. Christopher Myers:

Terrain Characteristics

The location of elevated terrain is often an important factor in assessing potential exposure. An emission plume resulting from an accidental release may impact high elevations before impacting lower elevations. The site topography is predominantly flat (about 58 feet above sea level), and the surrounding area is at a similar elevation in all directions (MMC 2007b, Section 5.1.2.2).

The Otay River is adjacent to this site on the south. It is substantially lower than the site. Across the river there is a low shelf and then a high ridge. It is not accurate to characterize the areas around the site as flat.

Albany Headstart and the CVESD pre-K program as well as the senior lunch program and the Otay Recreation Center are closer than the Elementary School itself. Also there are at least 60 homes that are closer.

Ammonia

Indeed the existing peaker has a RMP, but that report gives 80% credit to polyballs, which are a controversial technology and cannot be trusted to protect the public from the [dangers of an accidental or intentional spill](#). Actually even with the polyballs in the event of a spill ammonia would reach the parking lot of Heartland Meat to the west where there are always workers in the parking lot. I do agree that children are of more concern, but since workers park in this area leaving would be problematic in the event of a spill. The workers on the east are much closer. If the polyballs fail to contain the spill as they are projected to do the danger area is 1,000 feet, which includes many homes with children as well as many workers and a very busy public street.

At 210 feet the ammonia has the potential to reach beyond the buildings to the east, which are a mere 20-30 feet from the fence line. This is of great concern to the workers. Considering that MMC and its employees have been lying to us continuously about such things as permits and contracts, we really have no faith in their concern for our health or safety and consider having this quantity of aqueous ammonia this close to sensitive receptors (employees to the east and the west) absolutely unacceptable.

Considering that the facility is staffed only part time the risk of vandalism or treachery is too great. The frequency of inspection by the County is woefully inadequate to reassure anyone. We do not know what staff considers an adequate response time since it is not stated in the PSA, but we do know the traffic problems in this area and traveling

15 miles during rush hour would take an hour or more from the sites mentioned in San Diego.

Transportation of Hazardous Materials

We are concerned by the comment that “many types of hazardous materials” will be transported to this site. Just exactly what are we referring to?

The proposed plant does need to redo the business plan and RMP and off site impacts, because as they admit the existing plant never had an ammonia delivery but they are projecting one or two per month. Even one or two ammonia trucks coming through our community are a cause of concern.

Isn't a risk of 14/45 in one million significant? It certainly would be for the specific people involved, and it is higher than 10 in a million. The problem with these estimates is that all this data has been amassed from a time with relatively few peaker and other power plants. There has been a huge increase in the past few years of peaker plants in California. Logically this would mean the odds of one of these accidents occurring at a specific peaker would be steadily increasing. It is a good restriction that the trucks will not be on Main Street when school buses are also on the street, but who is going to monitor this? Are you aware that SUHSD has been planning to move their bus garage from Fifth Ave. and one of the potential sites is Main Street? What about the public buses that also frequent Main Street? Coming down Main from I-805 the truck would pass several condominiums and a number of single- family homes. The trucks should also be required to travel in the left hand lane at the center of the road to keep them further away from homes. We do not believe even that will minimize the risk adequately since this road is highly traveled by large cement trucks and other large vehicles (including buses since there is a bus garage along the route), which means even a small accident could cause a large amount of damage to the truck.

Exactly what other hazardous materials will they be transporting to this site and with exactly what frequency? The comments in the PSA are quite vague.

Seismic Issues

Why are you not requiring the replacement of this old ammonia tank when your research shows there was a problem with old tanks but not with new ones? This site is in the vicinity of an assumed earthquake fault (the discrepancy in height of the two sides of the valley are an indicator). It has been a long time since an earthquake in San Diego, which increases the risk of one occurring.

Security

The RMP is totally inadequate in this area since it only deals with the release of ammonia. There are a lot more issues as noted in the PSA. The current lack of security is totally unacceptable. Security needs to be 24/7. This site is adjacent to the Otay River with a large homeless population. Eventually they will become aware of the amount of valuable metals etc. left totally unguarded at this site. The chain link fence now around the existing plant would be very easy to climb or simply cut with wire cutters. It really is surprising this has not been done yet, although they did mention there were some break ins when PG&E essentially abandoned the site several years ago.

Any site with explosive materials in San Diego, due to the large military presence, should be considered a possible terrorist target. There recently was a bombing at the superior court building downtown. We wonder if Medium Vulnerability is a sufficient assessment. The buildings on both sides of this site are empty at night and mostly on weekends. To the South is the OVRP open space preserve, which is occupied at night only by the homeless and potential vandals. There actually would not be any witnesses to any entry to the site during non-business hours and there would be many places where none of the businesses would notice unlawful entry during the day. Here we have a very vulnerable site, and we have two major roads near by and a lot of places to hide.

We do not think 24/7 video monitoring is adequate unless the cameras are monitored 24/7 by someone ready and willing to summon police immediately.

Cumulative Impacts

Doesn't the SBBP use ammonia and other hazardous materials? Don't the gasoline and oil in the numerous vehicles in the various lots, businesses, bus garage, garages, gas station on the corner, etc. within a mile of this site count as hazardous materials? The bus garage across the street also uses highly pressurized natural gas. We believe there are many places where hazardous materials (different than ammonia) are stored and used near by.

Conditions of Approval

All residents and businesses within 1,000 feet need to receive (in English and Spanish) a list of all hazardous materials stored on this site, what the dangers of each are, and how MMC plans to store them. They also should receive a copy of the emergency plan for dealing with any accidental or deliberate spill or release for each one of these hazardous materials and a copy of MMC's insurance policy guaranteeing the company has adequate coverage to pay any and all medical expenses incurred by workers and residents near-by in the event of a spill or release or

MMC should be required to have two entrances in order to comply with fire regulations. This is important for the safety of employees and for facilitating the efforts of fire personnel in the event of a fire or other emergency.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Acerro', written in a cursive style.

Theresa Acerro
President of
Southwest Chula Vista Civic Association.



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

5/18/08

RE: Comments on Land use Section of the PSA for the public record:

Mr. Christopher Myers:

CVEUP is **NOT** consistent with the applicable laws, ordinances, regulations, and standards pertaining to local land use planning and would generate a significant impact under the California Environmental Quality Act guidelines with respect to the act's Appendix G issues, "Land Use and Planning" and "Agriculture Resources."

CVEUP is proposed in a **LIMITED INDUSTRIAL ZONE**. These are the zoning codes relevant to this zone from the CV Municipal Code with violations highlighted in red:

L – LIMITED INDUSTRIAL ZONE

http://www.codepublishing.com/ca/chulavista_PDF.html

19.44.010 Purpose.

*The purpose of the I-L zone is to encourage sound limited industrial development by providing and protecting an environment free from nuisances created by some industrial uses and to **insure the purity of the total environment** of Chula Vista and San Diego County and to protect nearby residential, commercial and industrial uses from any hazards or nuisances. (Ord. 1281 § 1, 1970; Ord. 1212 § 1, 1969; prior code § 33.513(A)).*

As stated by Michael Meecham on 5/12/08 the carbon emissions from this plant would be between 7-and 25% of all the carbon emissions for the city. Since the city has signed the Kyoto Treaty and currently has an increase of 35% carbon emissions, this facility would have an extremely negative effect upon the total environment of Chula Vista and cause severe hardships for the citizens who will have to some how cut back 42-55% in order to have a chance of meeting our goal to lowering emissions to 1990 levels. <http://www.youtube.com/v/tIu2-GlqNIU> There will be a new regulatory document once adopted formally by the council in a few months: <http://www.chulavistaca.gov/clean/conservation/Climate/ccwg1.asp>

19.44.020 Permitted uses.

Permitted uses in an I-L zone are as follows:

A. Manufacturing, printing, assembling, processing, repairing, bottling, or packaging of products from previously prepared materials, not including any prohibited use in this zone;

B. Manufacturing of electrical and electronic instruments, devices and components;

C. Wholesale businesses, storage and warehousing;

D. Laboratories; research, experimental, film, electronic and testing;

E. Truck, trailer, mobilehome, boat and farm implement sales establishments;

Chula Vista Municipal Code 19.44.050 19-99 (Revised 8/06)

F. Public and private building material sales yards, service yards, storage yards, and equipment rental;

- G. Minor auto repair;
 - H. Laundries, laundry services, and dyeing and cleaning plants, except large-scale operations;
 - I. Car washing establishments, subject to the provisions of CVMC 19.58.060;
 - J. Plumbing and heating shops;
 - K. Exterminating services;
 - L. Animal hospitals and veterinarians, subject to the provisions of CVMC 19.58.050;
 - M. The manufacture of food products, drugs, pharmaceuticals and the like, excluding those in CVMC 19.44.050;
 - N. Electrical substations and gas regulator stations, subject to the provisions of CVMC 19.58.140;
 - O. Temporary tract signs, subject to the provisions of CVMC 19.58.320 and 19.60.470;*
 - P. Any other limited manufactured use which is determined by the commission to be of the same general character as the above uses;
 - Q. Agricultural uses as provided in CVMC 19.16.030. (Ord. 1356 § 1, 1971; Ord. 1281 § 1, 1970; Ord. 1212 § 1, 1969; prior code § 33.513(B)).
- * Code reviser's note: This section amended to conform with provisions of Ord. 1575, 1974.

19.44.030 Accessory uses and buildings.

Accessory uses permitted in an I-L zone include:

- A. Administrative, executive and financial offices and incidental services, such as restaurants to serve employees, when conducted on the premises;
- B. Other accessory uses and buildings customarily appurtenant to a permitted use;
- C. Retail sales of products produced and manufactured on the site;
- D. Caretaker houses;
- E. Satellite dish antennas are permitted in accordance with the provisions of CVMC 19.22.030(F)(1) through (9) and (11) through (13). (Ord. 2160 § 1, 1986; Ord. 2108 § 1, 1985; Ord. 1281 § 1, 1970; Ord. 1212 § 1, 1969; prior code § 33.513(C)).

19.44.040 Conditional uses.

Conditional uses permitted in an I-L zone include:

- A. Machine shops and sheet metal shops;
- B. Service stations, subject to the conditions in CVMC 19.58.280;
- C. Steel fabrication;
- D. Restaurants, delicatessens and similar uses;
- E. Drive-in theaters, subject to the conditions of CVMC 19.58.120;
- F. Major auto repair, engine rebuilding and paint shops;
- G. Commercial parking lots and garages;
- H. Plastics and other synthetics manufacturing;
- I. Building heights exceeding three and onehalf stories or 45 feet;
- J. Unclassified uses, as set forth in Chapter 19.54 CVMC;
- K. Trucking yards, terminals and distributing operations;
- L. The retail sale of such bulky items as furniture, carpets and other similar items;
- M. Retail distribution centers and manufacturers' outlets which require extensive floor areas for the storage and display of merchandise, and the high-volume, warehouse-type sale of goods and retail uses which are related to and supportive of existing, on-site retail distribution centers of manufacturers' outlets. Conditional use permit applications for the establishment of retail commercial uses, covered by the provisions of this subsection, shall be considered by the city council subsequent to its receipt of recommendations thereon from the planning commission;
- N. Roof-mounted satellite dishes, subject to the standards set forth in CVMC 19.30.040;
- O. Recycling collection centers, subject to the provisions of CVMC 19.58.345;

P. Hazardous waste facilities, subject to the provisions of CVMC 19.58.178;
Q. Brewing or distilling of liquors requiring a Type 23 Alcoholic Beverage Control License; Conditional use permit applications for the use in subsection (Q) of this section shall be considered and approved by the zoning administrator. (Ord. 3031 § 1, 2006; Ord. 2542 § 4, 1993; Ord. 2252 § 10, 1988; Ord. 2233 § 10, 1987; Ord. 2160 § 1, 1986; Ord. 2108 § 1, 1985; Ord. 2031 § 1, 1983; Ord. 1927 § 1, 1980; Ord. 1698 § 1, 1976; Ord. 1356 § 1, 1971; Ord. 1281 § 1, 1970; Ord. 1212 § 1, 1969; prior code § 33.513(D)).

As you can see not only is an electrical power plant not permitted in this zone, but it is not even a use permitted as a conditional use. The council NEVER should have approved it in 2001. In reality it is a use permitted in a General Industrial Zone, which this is NOT. Also on 5/12 the lawyer for MMC made it clear this was a “large generating plant” requiring an upgrade to the substation. This makes this essentially a totally NEW use. (<http://www.youtube.com/v/TA5yuuBqW3M>) The existing peaker is a small plant and did not require an upgrade. This again affirms that this is totally a NEW use and the fact that the old plant received a SUP is irrelevant!

Chapter 19.46

I – GENERAL INDUSTRIAL ZONE

19.46.010 Purpose.

The purpose of the I zone is to encourage sound industrial development by providing and protecting an environment exclusively for such development, subject to regulations necessary to insure the purity of the airs and waters in Chula Vista and San Diego County, and the protection of nearby residential, commercial and industrial uses of the land

from hazards and noise or other disturbances. (Ord. 1281 § 1, 1970; Ord. 1212 § 1, 1969; prior code § 33.514(A)).

19.46.020 Permitted uses.

Permitted uses in an I zone are as follows:

A. Any manufacturing, processing, assembling, research, wholesale, or storage uses except as hereinafter modified;

B. Automobile and metal appliance manufacturing and assembly, structural steel fabricating shops and machine shops;

C. Brick or pottery manufacturing and stone or monument works;

D. Trucking yards, terminals, and distributing operations;

E. Electrical generating plants and liquefied natural gas plants;

F. Temporary tract signs, subject to the provisions of CVMC 19.58.320 and 19.60.470;)*

CLEARLY THE CVEUP AND THE EXISTING PLANT ARE NON-CONFORMING USES AND AS SUCH ARE A PRIORITY FOR ELIMINATING FOR CODE ENFORCEMENT. (On May 13th we were told that code enforcement was trying to eliminate all the non-conforming uses from this zone. Brad Remp is the assistant planning director overseeing code enforcement, who made this clear to several used car dealers and their supporters on the steps of city hall on 5/13/08.) The small plant was and is non-conforming. The proposed plant being a “large generating plant,” requiring upgrading of the substation is even more non-conforming and belongs in an I General Industrial Zone, NOT HERE.

19.64.010 Declaration of policy.

Many nonconforming uses within the city are detrimental to the orderly development of the city and adverse to the general welfare of persons and property, in that said nonconforming uses constitute a special benefit or monopoly. In conformance with good zoning practices, it is the policy of the city that nonconforming uses shall be eliminated

as soon as it is economically feasible and equitable to do so. (Ord. 1212 § 1, 1969; prior code § 33.1101 (A)). 19-181 Chula Vista Municipal Code 19.64.080

19.64.050 Enlargement, extension or reconstruction prohibited –Exceptions.

A nonconforming use shall not be enlarged, extended, reconstructed, substituted or structurally altered, except in conformity with the order of a duly constituted authority, unless the use is changed to a use permitted in the zone in which such building or premises is located, and except as set forth in CVMC 19.64.060 through 19.64.180. (Ord. 1212 § 1, 1969; prior code § 33.1102).

19.64.060 Substitution or extension restrictions.

A. When authorized in accordance with the provisions herein, a nonconforming use which is **determined by the commission** to be of the same or a more desirable nature may be substituted for another nonconforming use.

B. Whenever a nonconforming use has been changed to a conforming use, such use shall not be changed to a nonconforming use thereafter.

C. **When authorized by the commission**, in accordance with the provisions herein, a building devoted to a nonconforming use may be enlarged or completed upon the same lot or parcel where such completion is necessary and incidental to its use. (Ord. 1212 § 1, 1969; prior code § 33.1102(A)).

The Planning Commission is given the authority to allow alteration, but a non-conforming use is not allowed by right to do any alteration even minor. **The proposed plant is a totally new use, since it requires upgrading of the substation and is classified as a “large generating facility” unlike the existing one.**

As it happens the existing peaker is operating now illegally and therefore has no valid SUP as per:

19.64.070 Cessation of use defined – Time limits.

A use shall be deemed to have ceased when it has been discontinued either temporarily or permanently, whether with the intent to abandon said use or not.

A. *Cessation of Use of Building Designed for Nonconforming Use. A building or structure which was originally designed for a nonconforming use shall not be put to a nonconforming use again when such use has ceased 12 months or more.*

This peaker did not operate for two years. It was illegally restarted several times by MMC Energy. For any other business in the I-L zone this would be considered illegal. For this business it should also be considered illegal. By ceasing operations for more than a year they voided their SUP and have been operating without a permit. They are a non-conforming use with no SUP. This is in violation of zoning codes and city code enforcement policy.

There is also the matter of the General Plan approved in December of 2005. I served on the Environmental and Open Space committee for several years. We specifically were referring to this particular peaker plant (and the Southbay Power Plant or any other plant) when we insisted this be part of the General Plan. Also this proposed plant is a large generating facility and as such is fundamentally a different use than the existing peaker plant. This is not just an upgrade of an existing use, but a different use.

This is verified by the need for an upgrade of the substation: **E 6.4 Avoid siting new or re-powered energy generation facilities and other major toxic air emitters within 1,000 feet of a sensitive receiver, or the placement of a sensitive receiver within 1,000 feet of a major toxic emitter.**



There are other sections of the General Plan, which are also violated by CVEUP: Environmental Justice section in our General Plan that states: **E 23.3 Avoid siting industrial facilities and uses that pose a significant hazard to human health and safety in proximity to schools or residential dwellings.** The fact that the state of California requires the posting of a warning sign on this facility, a hazardous materials

management plan and a business plan indicate that it poses a significant hazard to human health and safety.

Also in the General Plan: **Objective - E 20 Ensure that facilities using, storing, and handling hazardous materials and waste do not result in significant adverse effects to existing and planned surrounding land uses.**

The situation around this plant now is totally different than in 2001 when it was surrounded by junkyards and other storage facilities with a variety of hazardous materials. Now to the west and soon to the east are large meat processing plants. (Will consumers think that the particulate matter might contaminate the meat?) Across a 20 foot driveway to the east is an upscale design studio and a print shop. These businesses depend upon client visits. A facility such as a large generating facility with a cheap chain link fence with slats and two 70 foot tall smoke stacks will likely have a significant adverse effect upon these businesses just due to visual blight and public perception. Will international business people wish to attend workshops at a studio adjacent to something like this or come to drop off work or view show room samples? Modello Studios bought this condo. They were told by the developer that the plant was not functioning and would be torn down within 10 years and the area redeveloped with another use. When they were in National City they hosted several international conferences of design professionals who wanted to learn their techniques of stenciling. They were hoping to do the same here, but are not sure people will come. Sir Speedy Printing gets phone and online orders, but also expects people to drop by with work. Will people be willing to come passed this plant in operation?

This is an incompatible land use with what is **now** adjacent to it. It was always incompatible with the homes and schools and the council realized that when RAMCOII was proposed, and fought it vigorously. The original plant was approved in a hurry without discussion of the nearby homes and schools. No one realized what it was until it was too late. Now we know and we want it gone. The council realized that when PG&E immediately asked for an expansion and people were complaining because of the noise, emissions and visual blight from Beyer Way, Montgomery Headstart, Montgomery High, Montgomery Adult, the homes on the ridge across the river and, until the warehouse was built, the residents within 350-500 feet. Now the existing plant is hidden by the warehouse although the residents can still see the plume above the warehouse when it operates. On Alcova there is a view between Heartland Meat building and the one to the North directly across to the new warehouses to the east. Since this new plant is to be further north on the parcel, they likely will have a direct view of it through this opening.

This new plant is **NOT** consistent with the current development pattern. Intensifying industrial development is totally contrary to the development plan for this area. Most of the occupants of the new warehouses are of a more retail/commercial nature. Only the one small machine shop on the west, which has a CUP and is totally contained within its building is of an Industrial Nature. An electrical generating plant belongs in a Heavy Industrial Zone not in a limited Industrial zone that is being developed with import businesses, a vitamin store, a construction supply store, a computer store, a paint store, design studio, print shop, etc. The uses on the west have their back to it, but on the east it is 20 feet away from their front doors. This is not compatible at all. It also is non-conforming to the zoning of the area. Even the electrical power lines adjacent to the uses on the east are seen as troubling by employees and quite likely potential customers. At the meeting on 5/12 no mention was made of undergrounding these lines, but some mention was made of adding steel poles. The situation is not ugly enough? This clearly does not conform to the plans for this area.

Letting the city determine the landscaping is hardly going to make a non-conforming use conform to zoning standards.

There is an error on page 4.5-4 Southbay Recycling and the Paint and Body shop were bought by Voit over a year ago with the intention of building another warehouse type structure. They are representative of what surrounded the site in 2000, NOT of what existing land uses are becoming. Adjacent to the North is Paxton towing, NOT a salvage yard. They represent what used to be around the site, but are being phased out. The elementary school is less than 1300 feet and Albany Headstart, a pre-K and a senior lunch program are closer between the school and the substation. This power plant is the continuation of "land use conflicts" (COCV 2005a, p. LUT-131) The statement in the packet "[t]he zoning on the currently vacant site (Limited Industrial) allows public and quasi public uses like a peak load power plant through a Special Use Permit... With the approval of the Special Use Permit (and the conditions listed in the Agency Resolution) the proposed project is determined to be consistent.." is **incorrect** since the zoning ordinance specifically places electric power plants in I Industrial zones **NOT** in limited industrial. This was an inconsistent use in 2000 and it is even more so now. The 1989 General plan was in force in 2000. It did not have an environmental element at all. It was a 90- page document with little detail. It was adopted the same year that Montgomery Specific Plan was adopted, shortly after annexation. Even if the small peaker was found consistent in error, the proposed project is a large generating plant requiring an upgrade to the substation. This is a totally new use and much more inconsistent with surrounding uses now and the development plans for the area.

P36 of the Montgomery Specific Plan decried the land use conflicts in the area between industrial and residential. On page 26 it is stated "*given that the mixed land use pattern will continue to exist, a goal of the specific plan should be to minimize its negative aspects.*" Unfortunately this was not done in 2000. On page 43 under Pattern of Development: "*There will however, be a continuing change of land uses from heavy industrial to light and limited industrial uses.*" The placing of the peaker here violated this intention of the Montgomery Specific Plan. Part II page 16 "*Notwithstanding the Specific Plan's proposal that Montgomery remain an industrial center, it is essential that the existing wrecking yards, junk yards, open storage areas, salvage operations, batching plants, and other marginal or **heavy industrial uses** be, to a substantial extent, gradually phased out, or discontinued.*" Placing the peaker here in 2000 violated this land use goal. The proposed project is a "large generating facility" requiring an upgrade of the substation and therefore violates it to a greater extent. Since 2000

this phasing out has occurred on both sides of the peaker. The peaker needs to go too.

This peaker has a significant impact, as defined in the report: •" *Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction, or that would normally have jurisdiction, over the project. This includes, but is not limited to, a General Plan, redevelopment plan, or zoning ordinance*".

It is in conflict with the current General Plan of Chula Vista and several zoning ordinances and performance standards. It also conflicts with the Montgomery Specific Plan.

19.66.140 Air contaminants.

A person shall not discharge from any source whatsoever such quantities of air contaminants, including fly ash, dust, fumes, vapors, gases, and other forms of air pollution, as per Section 24243 of the State Health and Safety Code, or other material, which will cause injury, detriment, nuisance, or annoyance to any considerable number of persons or to the public or which endanger the comfort, repose, health or safety of any such persons or the public or which cause or have a natural tendency to cause injury or damage to animals, vegetation, business or property. In no event shall any emission, from any chimney or other source, or any solid or liquid particles in concentrations exceed 0.4 grains per cubic foot of the conveying gas at any point. (Ord. 1212 § 1, 1969; prior code § 33.703 (H)). 19.66.150 19-186

It clearly causes Air Pollution so it violates this performance standard. The peaker clearly produces, uses and stores dangerous and objectionable elements-oil, ammonia, etc. The sign required to be displayed and the permits needed from APCD and the County Environmental Hazardous Materials department verify this.

19.66.020 Creation of dangerous or objectionable elements prohibited.

No land or building in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosion or other hazard; noise or vibration; smoke, dust, odor or other form of air pollution; heat, cold, dampness, electrical or other disturbances; glare; liquid or solid refuse or wastes; or other substance, condition or element in such a manner or in such an amount as to affect adversely the surrounding area or adjoining premises; the foregoing are hereinafter referred to as "dangerous or objectionable elements." No use shall be undertaken or maintained unless it conforms to the regulations of this chapter in addition to the regulations set forth for the district in which such use is situated. (Ord. 1212 § 1, 1969; prior code § 33.702).

The peaker is contrary to these six goals of the current Five Year Redevelopment Plan:

Eliminate Blight: Eliminate and prevent the spread of blight and deterioration and to conserve, rehabilitate, and redevelop the Project Areas in accordance with the Redevelopment Plans.

Stimulate Economic Growth: Attract, expand, and retain desirable business and industry which effectively increases employment opportunities for community residents and enhance the tax base of local governments.

Jobs for the Neighborhood: Promote local employment opportunities.

Protect Local Businesses: Encourage the cooperation and participation of residents, businesses, businesspersons, public agencies, and community organizations in the redevelopment/revitalization of the Project Areas.

Promote Compatible Development: To encourage the development of residential, commercial, and industrial environments which positively relate to adjacent land uses, upgrade and stabilize existing uses, and preserve artistically, architecturally, and historically worthwhile structures and sites. To provide for the development of distinct commercial districts, to attain consistent image and character, and to enhance their economic viability.

Provide Quality Design: To remove impediments to land assembly and development through acquisition and reparcelization of land into reasonably sized and shaped parcels. To expand the resource of developable land by making underutilized public and privately owned property available for redevelopment. To achieve an environment reflecting a high level of concern for architectural, landscape, and urban design principals appropriate to the objectives of the Redevelopment Plans. Create physical buffers, which ameliorate the adverse effects of changing land uses along interfaces and discourage "spot zoning" and piecemeal planning practices.

The two 70 foot towers will create visual blight for businesses, homes and users of the OVRP. The building itself will be a significant blight for the commercial type buildings on the east and west. <http://www.youtube.com/watch?v=fOuSraebOqc> A building such as this operating 20 feet away will not attract businesses to the industrial building to the east. The people who bought here thought it was going away. This does not help their business potential at all.

<http://www.youtube.com/watch?v=vFbu8tcCaWA>

One part time employee does not promote employment opportunities or security.

<http://www.youtube.com/watch?v=rdgO1M8blZI>

A peaker plant does not protect local businesses.

This is not compatible development. It does not positively relate to adjacent landuses, particularly on the east and south.

This is NOT a quality design for the area. There is no buffer with the businesses to the east. This is “spot zoning” and piecemeal planning. This heavy industrial use belongs elsewhere. Placing it here totally contradicts all the plans for this area.

The Redevelopment Plan further states about the Montgomery area: *It is also characterized, however, by numerous light-industrial uses and large-sized parcels, particularly along Main Street, that will provide important redevelopment and economic development opportunities to the City, including the creation of new commercial and light-industrial uses, and the environmental cleanup of contaminated properties.*

The peaker does none of this, just adds visual blight that will discourage the sale of the rest of the condos adjacent to it.

Page 4.5-8 clearly indicates the problems the peaker will cause: *In general, a power plant and its related facilities may also be incompatible with existing or planned land uses, resulting in potentially significant impacts, if they create unmitigated noise, dust, or a public health or safety hazard or nuisance; results in adverse traffic or visual impacts; or precludes, interferes with, or unduly restricts existing or future uses.*

Table 4

As previous stated there is no auto body painting shop anymore. The land now belongs to Voit and is planned for another upscale condo project which would be incompatible with a peaker plant. According to the city’s zoning ordinances this use belongs in an I General Industrial zone NOT a limited industrial zone.

The surrounding uses have drastically changed since 2000. The peaker is now the source of blight.

LUT 5.6 talks of revitalization. An intensification of the peaker and addition of two 70 foot towers will lower the property values and development potential in the area, since surrounding uses have radically changed since 2000.

LUT 6.8 There is no guarantee that people will not be negatively impacted by the transport of ammonia. The County gave 80% credit for containment of ammonia due to polyballs, which are an unproven controversial technology. Essentially the protection is doubtful in the event of an accident or spill.

LUT 7.3 **The minimal requirement of 1,000 feet from schools is new. The older requirement was a half mile, which was minimal.** This is not being met for 6 schools: Montgomery Headstart, Montgomery Adult, Montgomery High, Otay Elementary, Albany Headstart, and CVESD Pre-K which are all less than a half mile from the peaker. If the CEC were to get a copy of the spreadsheet maintained by Dale Parent for the CVESD staff would see that there are more cases of asthma and other respiratory problems at Otay Elementary and Montgomery Elementary than at other school sites. This is due to the contamination in the air around this neighborhood. This plant running up to 800 hours per year will make this situation worse.

<http://www.youtube.com/v/5y1GdmNfA3s>

LUT 45.5 The proposed peaker is NOT consistent with this policy since the planned use is for upscale light industrial, NOT heavy industry. The north and south sides of Zenith are residential and would not be compatible with heavy industrial or even many light industrial uses. The community is totally opposed to this section of the General Plan and plans to petition for an amendment. The city does not have eminent domain due to Proposition C so the lots on the north of Main St. will not be extended.

LUT 45.6 CVEUP would violate this objective because of its heavy industrial nature. The plan calls for light industrial and an elimination of non-conforming uses such as CVEUP. ED1.3 Again CVEUP is not the kind of industrial envisioned by the General Plan.

PFS 22.4 This use does not minimize impacts to the community. Nothing is being under grounded and there is a maze of wires all around the substation and along the driveway. Actually CVEUP should go elsewhere and the substation should be moved to the site with under grounded wires. It is not true that this area needs 100mw more of power. Looking at the map one can see we already have almost 40 mw per square mile, which is way beyond our current and future needs. Many other areas in San Diego County have less than 10 with much larger populations. This plant could be put anywhere in the region and serve the same effect for stabilizing and providing peak energy. The eastern area of Chula Vista has the highest energy demand. The west is lower so if this logic made sense the plant would be in the east.

Staff is totally misinterpreting what happened in 2000. We were ignorant about what a peaker was. It was unclear as to where it was going to be. The only people receiving notices called and were told not to worry about it. It was just to keep the lights



on. The commissioners were told it would hardly ever operate. As soon as it was built we all realized our mistake. I taught at MOH-a year round school-and could see it operated practically every day

during the summer for the first couple of years. The plume was visible from our native plants garden and Beyer Way, which I traveled to and from school. The plant is very visible from Montgomery Adult, Montgomery Headstart and the homes on the ridge. It is a blight on the river bottom highly visible from the road. I live off of Hilltop and I can see the power poles and the roof now. I know I will be able to see the 70- foot towers as will the people living within 500 feet and the people living on Main Street. The new plant will be a bigger visual blight and further discourage revitalization of the area and reinforce the idea that we are not important to the city. The existing one is more visible from the San Diego side and the bridge. The people near by can see the plume from it and they do hear it at night as a low whine. Everyone feels they were lied to initially.

We expect the CEC staff to give a more honest and less biased report on this matter. It produces more contamination per hour. This is why it has to buy emissions credits, and this should be stated in plain language. This garbage about the city obviously doesn't consider it a major polluter because they okayed it in 2000 totally ignores how opposed the city was to an additional plant in 2001, after they knew what they were dealing with. I think they were as ignorant as we were. MMC has been amazingly dishonest in their comments for the entire time this issue has been on the table. They have been hesitant to provide data from day one. There are no redeeming features of this

proposal at all. Until 5/12 they were insisting 400 hours or less per year. On 5/12 they stated up to 800 were likely <http://www.youtube.com/v/5y1GdmNfA3s>.

Our neighborhood is consistently dumped on and ignored by the city. We have the worst infrastructure and the worst image in the city. We are sick and tired of being treated this way by the city of Chula Vista. At annexation in 1985 we were promised improved roads and sidewalks. We have gotten very little of what was promised. Instead the city dumped this wretched peaker on us with totally inadequate information and oversight. The plant actually used a used generator and was never updated as required.

We already endure a bus terminal, a cement plant with visible particulate pollution, a cogeneration plant, excessive truck traffic day and night, regional traffic and the southbay power plant. We have had it. MMC's profit is not worth a further increase in cancer and asthma or a further degrading of our community visually and socially.

4.5-21 The current peaker does not have a valid permit, because the operation ceased for more than 12 months, therefore, the assumption that it is compatible with existing land uses is totally unsupported by fact. It is unfortunate but true that when dealing with minority communities in this section of Chula Vista, Community Development has been historically uninterested in the well being of residents or existing businesses. Social, economic and environmental justice issues continually arise in our neighborhood because of the continued insensitivity of staff and the city to our community. The comments written in 2000 just confirm what the community has felt for years. This near by neighborhood is 81% people of color 99% Hispanic. This would not be happening in Eastlake or Otay Ranch where the residents are more affluent and vocal. These peakers are targeted for these kinds of neighborhoods statewide, and the city's latest brilliant idea is to locate a Wastewater Treatment Plant in the Main Street area, which shows their lack of concern for our neighborhood.

The conclusion that there would be no adverse impact to the sensitive receptors-residents- from this peaker is not correct. Many of the people living closest are elderly. Many are ill and have compromised immune systems. There are also children. There is no question they are at risk from a number of other sources of contamination, but this is an additional one that need not be added to the mix. This is the testimony of Dr. H. from UCSD School of Medicine (It was turned in in writing with references on 5/13/08 <http://www.youtube.com/v/6T43FYPT1SE>. This is the oral testimony of a near-by resident: <http://www.youtube.com/v/Ux2Iq9KzxT0>.

4.5-23 There is a huge misrepresentation in the Cumulative Impacts section. *A project may result in a significant adverse cumulative impact where its effects are cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects (CCR 2006, §15065[A][3]).*

The sewing manufacturing project is an existing use. Cottage industries are common in the southwest. The owners of this property live on Albany (also within 1,000 feet). The sewing is manufactured within a residential building on Main Street, by individuals seated at sewing machines.

The city has been hounding them to upgrade. They are trying to get financing to build a new two-story building. The plan is to rent out one floor to pay the expenses of the project while continuing to sew on the other floor. They have not made much progress on their plans because the city has put forth so many obstacles and expenses. They are a Spanish speaking family business. The only equipment used are sewing machines. Comparing the existence of this business in this zone to a peaker plant is ludicrous. CVEUP is totally inconsistent with the sewing use. We are not talking big machinery here. We are talking people sitting at sewing machines. The other projects are residential or commercial except for

the recycling business that wants to move from a small site on the south side of Main St. to a larger site on the North side about 1300 feet away from CVEUP. None of them have any similarity to CVEUP, which is a heavy industrial use that does not belong in a light industrial zone.

Staff is totally ignoring the negative effects of past projects that contribute particulate matter and other pollutants to the air. That cement plant spreads contamination, which people need to scrape off their cars for several miles. Not to mention all the trucks it adds to the heavy truck traffic along Main Street. The effects of this peaker are cumulatively significant and the fact that they need to buy emissions credits acknowledges this. Emission credits like cap and trade are totally unacceptable to sensitive users since the health of one person is being traded for the health of another. We refuse to accept that the health and peace of mind of our neighbors is less valuable than that of others.

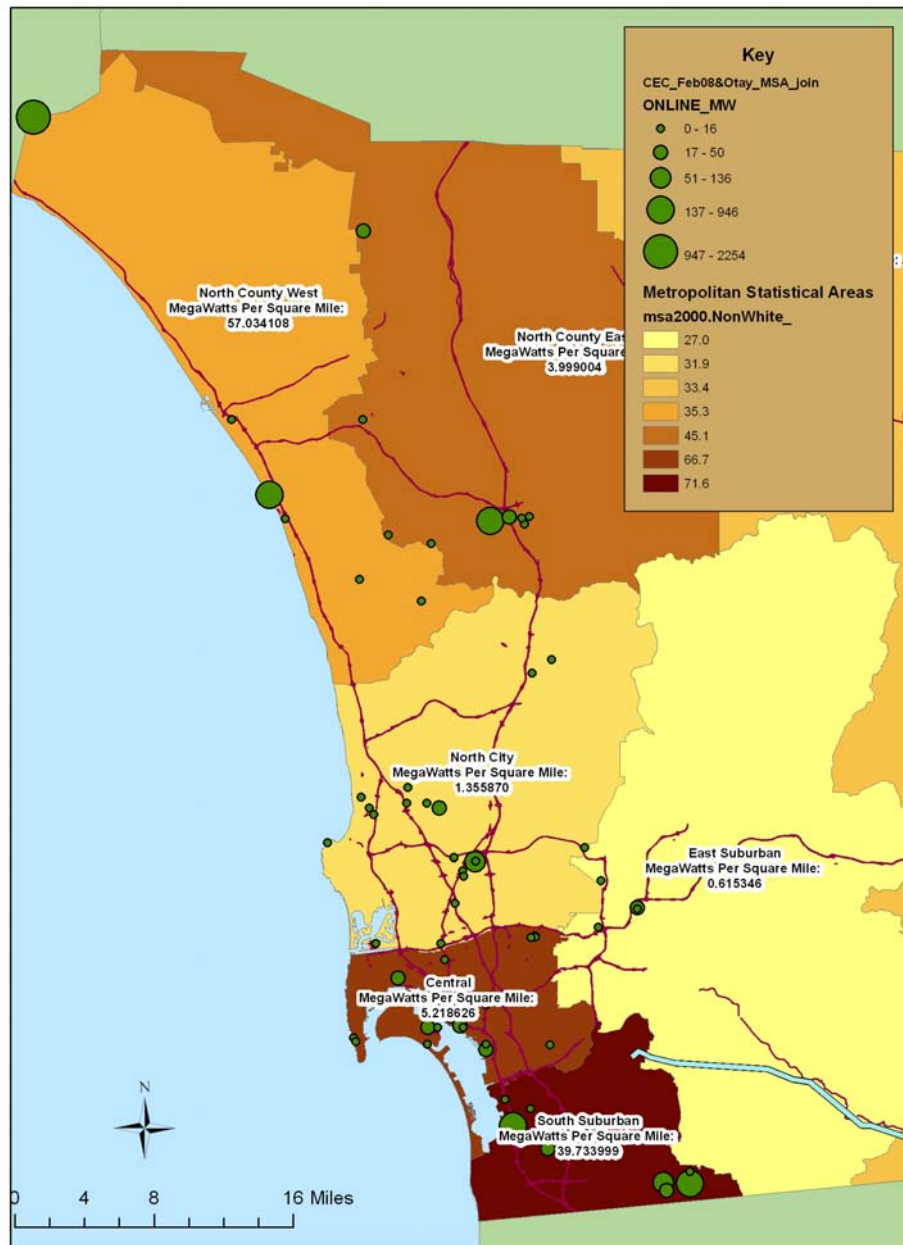
How can you say it would not require a zoning amendment? It would require a CUP, which is essentially a zoning amendment. It would also ignore the safe guards we specifically built into our General Plan in 2005 to get rid of the existing generating plants in the city.

This statement is not true and staff knows this: “The project is planned to serve the existing and anticipated electrical needs of the immediate project area by connecting to existing electric and other utility infrastructure.”¹ The electricity generated by this facility goes into the grid and goes where ever there is a need. It is not used locally. It would operate if there was a problem in La Jolla or congestion on the grid anywhere in at least a three county area. My solar collectors provide for my needs and then some. CVEUP is **NOT** needed locally. As staff says this area is “built out” and the use of electricity is what it is. It is not going to grow tremendously. The growth will be in the east. We don’t put a high demand on the grid. The existing peaker was not used at all for the last two years and all together was not used enough to refill the ammonia tank even one time. The only result of putting CVEUP here would be an increase in profit for MMC. Some day I do believe grids will be obsolete and energy will be generated by fuel cells and other sustainable uses for small areas. This is not the case now. The project engineer admitted at the first public hearing that this peaker could be put anywhere in the greater San Diego area and still fill the exact same need. (http://www.youtube.com/watch?v=2_aarWUROiU) Statements such as this one¹ in the report are deliberately misleading and dishonest. It is one thing for MMC to twist the truth and another for CEC staff to do it. Assistant City Manager Scott Tulloch and the Environmental Health Coalition confirmed with SDGE that MMC has no contract with them. Their only contract(?) is with the ISO which will fire up the plant in response to state-wide, NOT LOCAL, needs. The lawyer for MMC also confirmed this in her discussion on contracts or the lack of same: <http://www.youtube.com/v/TA5yuuBqW3M>. **We expect staff to be more honest in their final report. Staff does not work for MMC, but the people of California.**

Looking at the map below one can see how unjustly electrical generating facilities are located throughout the county. (North County is skewed by San Onofre Nuclear

Power Plant which is almost out of the County.

MegaWatts Per Square Mile & Percent NonWhite by Metropolitan Statistical Region



Sources: CEC (Power plants)
SANDAG: MSA map layer

Feature edit map.mxd
Environmental Health Coalition, 2008.

We do not believe that the current project is consistent with the current development pattern in the area for the reasons already stated. The circumstances now in the immediate area are totally different than in 2000. There is a new General Plan, which specifically established a 1,000- foot buffer for electrical power plants, including this one. CVEUP is a totally different project since it is a large generating facility requiring a large generator connection agreement unlike the existing peaker. Two brand new industrial condominium structures now surround the site. The businesses on the east have front doors a mere 20 feet away. CVEUP would be a neighbor possibly creating a detrimental effect upon their businesses. In no way would it complement them or be

consistent with them. CVEUP is a heavy industrial use according to the city's zoning ordinances, and by the admission of their lawyer a "large generating facility" requiring an upgrade to the substation. The plant would be less visible from Beyer Way but more visible from the near-by residential and just as visible from the many homes and uses that are close by and at a higher elevation. The city also has signed the Kyoto Treaty and the burden of 7-25% of the total carbon emissions for the city would likely make meeting the Kyoto goal impossible without draconian restrictions upon the residents, other businesses and the city itself.

If Land Use 1 only involves landscaping, color and the like it is totally irrelevant to the consistency with the limited industrial zone. It can meet all the landscaping, setback, parking etc. requirements and still not be appropriate for a limited industrial zone. The zoning code says it belongs in the I General Industrial zone, which is **NOT** here.

There is no way that this use is consistent with an upscale design studio, which would be 20 feet across the driveway from it. <http://www.modello designs.com/> They were told by the salesman that the peaker was closed and would be torn down. (Since it did not operate for more than 12 months and lost its SUP, this was a good assumption, and probably what Community Development told the developer.) (You have received e-mails from Eric and some of his workers.) This is why they bought here. This was what all the new owners were led to believe. There is no way this use is consistent with the neighbors. Sir Speedy is also across the driveway. <http://www.sirspeedy.com/> Many of the other units are still empty and if CVEUP moves in might well stay empty. On the west the loading docks face toward the peaker and the businesses are noisier and more industrial types of uses.

The proposed project when considered with other uses in the area would have a cumulative effect, because it would produce 7-25% of all the CO₂ in the city and it would produce an increased amount of particulate matter in an area with a high rate of asthma and high diesel traffic. <http://www.youtube.com/v/tlu2-GlqNIU>

Sincerely,

A handwritten signature in black ink, appearing to read 'Th. Acerro'.

Theresa Acerro
President of Southwest Chula Vista Civic Association



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

6/4/08

RE: Comments on Socio Economic Section of the PSA for the public record:

Mr. Christopher Myers:

The socio-economic area being impacted should be one mile around the site not Chula Vista-San Diego Region.

Existing Peaker

MMC or, perhaps PG&E, will have to tear down the existing peaker in any case whether the 100mw plant is built or not. Therefore, this is not a benefit of the new large generating facility, requiring an upgrade of the substation. When PG&E abandoned the peaker for over 12 months they essentially voided their special use permit and became a non-conforming use that could not be replaced on the site according to:

CVMC 19.64.070 Cessation of use defined – Time limits.

A use shall be deemed to have ceased when it has been discontinued either temporarily or permanently, whether with the intent to abandon said use or not.

A. Cessation of Use of Building Designed for Nonconforming Use. A building or structure which was originally designed for a nonconforming use shall not be put to a nonconforming use again when such use has ceased 12 months or more.

This peaker did not operate for two years. It was illegally restarted several times by MMC Energy. For any other business in the I-L zone this would be considered illegal. For this business it should also be considered illegal. By ceasing operations for more than a year they voided their SUP and have been operating without a permit. They are a non-conforming use with no SUP. This is in violation of zoning codes and city code enforcement policy. City ordinance specifically says that electrical generating plants belong in a heavy industrial zone. This is a light industrial zone. A peaker is a non-conforming use and it is city policy to eliminate non-conforming uses. It is also the policy of code enforcement to require that the site be returned to bare ground before the code violation case is closed.

CVMC 19.64.010 Declaration of policy.

Many nonconforming uses within the city are detrimental to the orderly development of the city and adverse to the general welfare of persons and property, in that said nonconforming uses constitute a special benefit or monopoly. In conformance with good zoning practices, it is the policy of the city that nonconforming uses shall be eliminated as soon as it is economically feasible and equitable to do so. (Ord. 1212 § 1, 1969; prior code § 33.1101 (A)). 19-181 Chula Vista Municipal Code 19.64.080

Workers

We question whether most workers will be drawn from San Diego area, because the construction of a power plant must require specialized skills. MMC has built another plant in San Diego County. We feel the CEC staff needs to verify where those workers came from and indeed if the same crew is not used at each of the sites they build. Nothing that MMC says can be taken at face value since they have lied at least to the public about a contract with SDGE and their permit.

Demographic Screening:



This is an environmental justice community as staff correctly states. The problem is that staff has not evaluated the current negative impacts to this population and accurately described the setting, and “unique circumstances” have not been analyzed. Any new impacts would be cumulatively significant due to the current situation. This is a short video on demographic data for the southwestern part of Chula Vista: <http://www.youtube.com/watch?v=NBEOgrtlq3Y> . The speaker is Councilman Ramirez.

We have regional traffic problems. We have three times the industrial uses as the northwestern part of Chula Vista and three times the commercial needed to provide for the needs of the residents (Montgomery Specific Plan).

We have more criteria and toxic pollutants in our air.

<http://voiceofsandiego.org/articles/2007/01/02/news/01pollution.txt> There is a cement plant in the river bottom within $\frac{3}{4}$ mile of the proposed peaker.

Metropolitan Transit keeps its buses next to Otay Recreation across Main Street from the entrance to this peaker. We have two sets of high power transmission lines- towers and steel poles- going through our community. We have a maze of overhead wires. Our streets are a mess. We have drainage problems and many neighborhoods do not have sidewalks, gutters or curbs.

It is totally inappropriate to subject this community to this proposed heavy industrial use in a light industrial zone. As pointed out earlier the issue of the existing peaker is moot since it violated an ordinance that makes its existence illegal.

<http://www.youtube.com/watch?v=ea7LvJWZ-Cw> Some of our streets look like a third world country. The impacts of this project upon the populace are from its negative image, air pollution, negative visual impact, and inappropriate land use violating many policies, the General Plan and zoning ordinances. This would not happen in a non-environmental justice community.

Since they would have only one employee and little traffic, other than if they were vandalized frequently, they would have little impact on services, but they would not help matters any either just make them worse.



Fiscal/Non-Fiscal

Table 2 is rather hard to believe. There is no way they are going to need 633 workers to build a peaker like this. Again staff needs to get the figures from a recently built 100mw plant to verify these figures. They are not building a city here. Even 160 seems high. They already have operation workers. Do they plan to fire them and hire someone local?

What exactly would they need to buy regularly that would generate over \$23,000 in sales tax? We don't believe natural gas charges sales tax and surely they won't buy that much ammonia. Instead of these made up figures provided by MMC how about some actual facts? (A local used car lot generates \$17,000 in sales tax a quarter.)

The current property tax paid on 3497 Main Street is \$49,108.33. The land is assessed at \$2,055,521, which would not change. The improvement value is \$2,199,766. This presumably is the value of the current peaker plant. In the Southwest Redevelopment area 40% of the tax increment goes to the RDA, 20% to the county, 20% to schools and 20% to affordable housing. The city General Fund only gets what it always has gotten which would be about 14% of the part of the tax that is on the land or about \$3,400. This is all it would get if this new large generating facility were to be built. The RDA spends 85% of what it collects on administrative costs and debt service. This is of absolutely no value or benefit to the community. The amount of money from this facility would be used to pay one or two employees. We question the figure of \$855,220. This seems like a huge amount. We also question whether the value of a 100mw peaker is \$80 million. Certainly the CEC has access to actual costs of these peakers and their assessed values? It makes no sense that if a 44.5mw plant was valued at \$2 million in 2001 a 100mw plant would be valued at \$80 million in 2008, especially in this economy. The distribution figures are not correct in any case, because the correct %'s were not used. Also the city of Chula Vista will not get any more than they are getting now for their General Fund, since this is a redevelopment area.

We also question the sales tax figure for construction, since it is our understanding that these generators are not made in California but need to be trucked in from somewhere in the Midwest. It is also questionable as to where this construction materials money will be spent. We suspect that most of what is needed to build a generating plant is not available at White Cap Construction around the corner. Again please verify the capital costs. What needs to be bought and where it will be purchased. These are very relevant questions for determining actual benefit, if any, to the community.

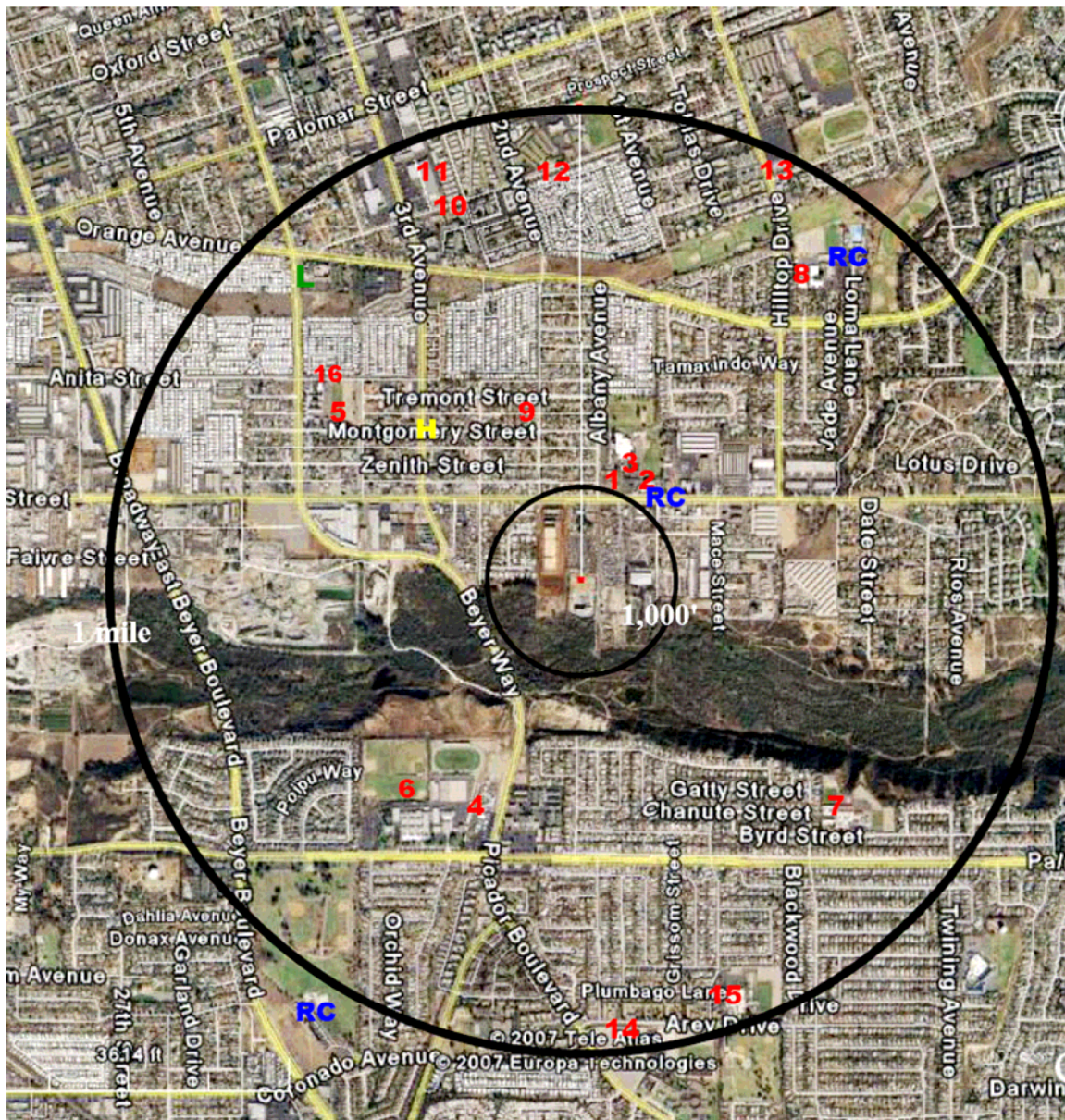
Staff needs to validate all the supposed benefits figures.

Schools

MMC did a faulty survey when they concluded there were 9 schools within six miles of this peaker. There actually are 12 schools, two recreation centers, and a health clinic within one mile as the map on the next page shows. MMC did not count the South Bay Union schools, or the Headstarts, or the CVESD pre-K, or the private Apostolic School. MMC has been less than honest since they first applied. Last year they told us they had a contract with SDGE, which is why we might as well accept what they were planning to do. This month we found out they do NOT have a contract with SDG&E and SDG&E does not need peaker power in the southbay. They also said they had a 30 year permit. We now know they don't have any permit at all. Their lack of truthfulness makes us doubt everything about this project. We urge staff to be more skeptical and not base conclusions on data supplied by MMC.

Conditions of Approval

If this large generating facility is permitted, which it should not be, there needs to be a condition of approval requiring upgrading to the highest and best technology of all pollution control equipment and the generators every two years or as upgrades become available. The community should not be forced to bear increased pollution as the plant ages. All power lines around the substation and within one mile of the site need to be under-grounded. The pollution from the cement plant must be substantially reduced. All truck traffic must be eliminated from the west driveway at the warehouse on the west. The east side must be used both to enter and exit. Some physical barrier needs to be in place to insure this.



Goggle measurements: nearest house 350', CVESD pre-K 1,200' **1**, Albany Headstart 1,228' **2**, Otay Elem. 1,338' **3**, Otay Rec. 1,164' **RC**, Montgomery Headstart 2,640' **4**, Montgomery Elementary 3,022' **5**, Otay Community Health Clinic 2,386' **H**, Montgomery High School 2,008' **6**, closest San Diego house 1,638', Finney elem. 3,361' **7**, Loma Verde Elem. 4,067' **8**, Loma Verde pool and Rec Center **RC**, Otay Apostolic church and elem. school 2,074' **9**, just inside of a mile: MAAC Charter School **10**, MAAC Headstart **11**, Castle Park Middle **12**, Castle Park High **13**, Montgomery Middle **14**, Silverwing Elementary **15**, Montgomery Elementary Headstart **16**, South Chula Vista Library **L**

Sincerely,

Theresa Acerro
President of Southwest Chula Vista Civic Association

PS: At this site can be viewed three maps showing how the southern part of the county bears a disproportional amount of impacts of fossil fuel electrical generation <http://www.chulavistaissues.org/landusepsa.htm>



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

6/4/08

RE: Comments on Public Health Section of the PSA for the public record:

Mr. Christopher Myers:

The zip code 91911 is number **3 in the county in quantity of criteria pollutants and number 7 in toxic pollutants.** Our part of San Diego County and western Chula Vista are heavily impacted now by polluting industries. We don't want another one. The issue is not whether the proposed peaker meets minimal standards and thresholds, but that we have had enough of being dumped on. The proposed mitigation of buying emissions credits is totally unacceptable to the community. Rejecting the new plant is the only acceptable solution. Our neighbors suffer from multiple health problems already. We have a cement plant that scatters visible particulate matter around the neighborhood. The diesel truck traffic is of a regional nature. The SBPP adds particulates and an oily substance whenever it operates.

It is not adequate to use hospital records for the county. Data must be looked at by zip code. <http://www.youtube.com/watch?v=6T43FYPT1SE>

For Zip Code 91911, the rate of hospitalization of children with asthma is 112 per 100,000 children. 18 percent higher than the County Average of 95 per 100,000. For the Zip code 91910, the hospitalization rate is lower than for the County. This information is from data submitted to the state of California by each hospital in California. This particular factoid is from the 2003 data set.

Perhaps, the CEC staff could access this data base for the 91911 zip code and include in the FSA the number of hospitalizations for cancer, adult asthma, heart disease, lung disease, and other ailments caused by excessive amounts of pollution?

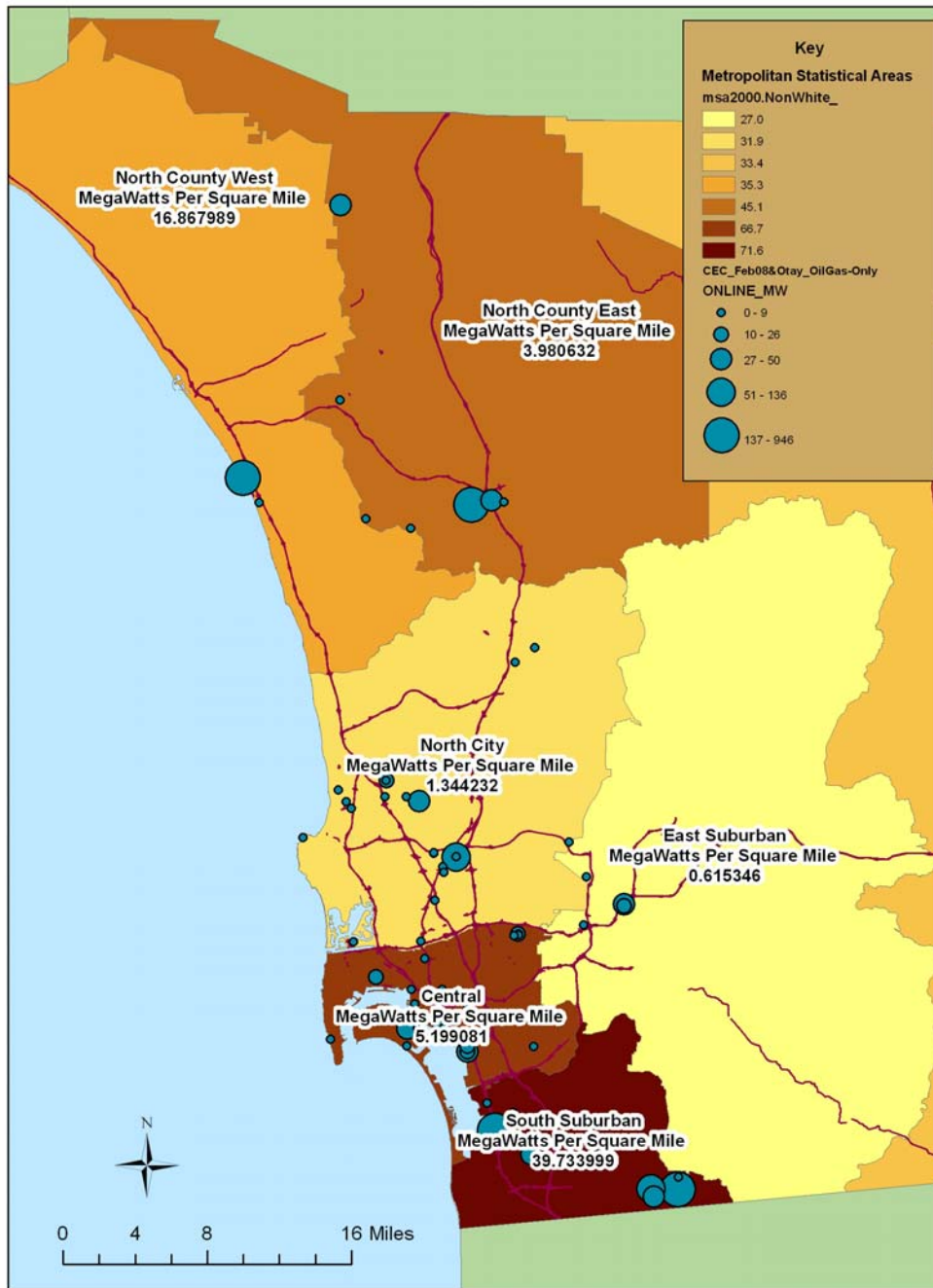
<http://www.youtube.com/watch?v=Ux2Iq9KzxT0>

This is an environmental justice issue within the southern part of the county. We are a part of a southern suburban area that produces already almost 40mw per square mile, using natural gas and landfill gas. This is out of proportion with 4 out of the other five areas of the county and a local environmental justice issue since we also have the largest minority population in the county. (If the nuclear power plant in North County West almost in Orange County and on a Marine Corps base were included the mw per square mile there would be 50, but this is a totally different kind of impact and health risk. Considering only the gas fired plants this area only produces around 16 megawatts per square mile-the second highest in the county after the southern suburban.)

Neurotoxins have not been adequately dealt with as a possible public health risk.

<http://www.dontwastearizona.org/power.html>

MegaWatts Per Square Mile and Percent NonWhite Population, Natural Gas & Landfill Gas Facilities Only



Sources: CEC (Power plants)
SANDAG: MSA map layer

Feature edit map.mxd
Environmental Health Coalition, 2008.

Health Effects of Noise

Low level and high pitched noise negative health effects have not been dealt with. The current peaker can be heard in the homes as a low hum at night. The whining sound has caused headaches and other ailments among the workers at the near by design studio. They work in a quiet place and are highly sensitive to this disturbance. There is much research showing the negative health effects of low-level noise.

<http://www.youtube.com/watch?v=yFbu8tcCaWA&feature=related>

“Even low-level office noise can increase health risks and lower task motivation for workers, Cornell researchers find”

<http://www.news.cornell.edu/releases/Jan01/noisy.offices.ssl.html>.

Events that disturb and harm our physical, emotional, and mental health are called stressors. Stressors can lead to the body initiating the fight-or-flight adrenaline response. The body gets ready to fight a stressor, or flee a stressor. Boom cars, with their high-intensity/low-frequency sounds and infrasound, are a known stressor that can lead to specific, negative events in the body....

Dr. Luther Terry, a former U.S. Surgeon General, noted that "excessive noise exposure during pregnancy can influence embryo development."

"Growing evidence suggests a link between noise and cardiovascular problems. There is also evidence suggesting that noise may be related to birth defects and low birth-weight babies."

"The U.S. study in Los Angeles found that, in addition to greater incidence of low birth weights, there was also a greater incidence of birth defects such as clefts of the lip or palate, and spinal malformations."

(Source: The Environmental Protection Agency's NOISE EFFECTS HANDBOOK)

Even chronic, low-level traffic noise at 50 - 60 dB can adversely affect children. It can cause a rise in blood pressure, heart rate, and stress hormones. In addition, it also reduces task motivation and learning.

Elevations of stress hormones are linked to the adult illnesses of "high blood pressure, elevated lipids and cholesterol, heart disease and a reduction in the body's supply of disease-fighting immune cells." (Source: <http://www.newscientist.com/news/> - Ithaca, NY, 5/22/2001

Bursts of Noise: "One burst of noise, as from a passing truck, is known to alter endocrine, neurological, and cardiovascular functions in many individuals; prolonged or frequent exposure to such noise tends to make the physiological disturbances chronic. In addition, noise-induced stress creates severe tension in daily living and contributes to mental illness." (Source: NOISE POLLUTION, Electric Library presents Encyclopedia.com) "Research shows that intermittent and impulsive noise is more disturbing than continuous noise." (Source: League for the Hard of Hearing's NOISE & HEALTH FACT SHEET)

Hospital noise has been shown to slow healing." (Source: THE SOUND AND THE FURIOUS, by Corinne Asturias)

"Disturbances may occur even though the sound pressure level during exposure is below 30 dBA.

" Low-frequency noise will penetrate walls and barriers more readily than high frequency noise. (Source - GUIDELINES FOR COMMUNITY NOISE: ADVERSE

HEALTH EFFECTS OF NOISE)

An Introduction to Sound Basics. This "... document is useful to persons interested in finding out more about what Noise Pollution is and what its effects are, as well as how they may accurately measure the amount of noise in their environment." Article Online Source: Noise Pollution Clearing House

The 1999 report from the Census Bureau, titled AMERICAN HOUSING SURVEY FOR THE UNITED STATES, stated that noise is America's number one complaint about their neighborhoods. It is also the main reason for wanting to move to another location. Noise levels have increased 6 fold in major U.S. cities in the last 15 years. Automobiles are the largest source of noise.

Noise: A Health Problem. This 1978 document "... is a somewhat dated but still very helpful EPA document about noise and health." Article Online Source: Noise Pollution Clearing House

Uninterrupted sleep is known to be a prerequisite for good physiological and mental functioning of healthy persons. Whereas sleep disturbance is considered to be a major effect of environmental noise, data on the effects of environmental noise on sleep are limited. Recent research on sleep disturbance has been conducted for aircraft noise, road traffic, and railway noise. For example, road traffic noise in excess of 30 dB disturbs sleep. The probability of being awakened increases with the number of noise events per night. When background noise is low, noise exceeding 45 dB should be limited; for sensitive individuals, an even lower level is preferred. ...

Other factors that influence the problem of night-time noise include its occurrence in residential areas with low background noise levels, combinations of noise and vibration such as that produced by trains and heavy duty vehicles, and sources with low-frequency components which are more disturbing, even at very low sound pressure levels. These low-frequency components have a significant detrimental effect on health. ...

Mental health is defined as the absence of identifiable psychiatric disorders according to current norms. Environmental noise is not believed to be a cause of mental illness, but it is assumed to accelerate and intensify the development of latent mental disorders. The adverse effects of environmental noise on mental health include the following catalog of complaints; anxiety, emotional stress, nervous complaints, nausea, headache, instability, argumentativeness, sexual impotency, changes in mood, increase in social conflicts as well as neurosis, hysteria, and psychosis. Population studies have suggested associations between noise exposure and mental health indicators such as rating of well-being, symptom profiles, use of psychoactive drugs and sleeping pills, and mental hospital admission rates. There may be great differences in the ability of various populations to cope with noise pollution; particularly vulnerable groups may include, children, the elderly, and those with preexisting disease, especially depression."

<http://www.nonoise.org/library/whonoise/whoresponse.htm>

The current peaker is a source of significant noise. A large peaker operating more hours is more likely to cause the development of some of these ailments which MMC needs to be held accountable for.

Conditions of Approval

This peaker should not be approved, but in the event it is in total disregard of the negative consequences to our community, we have a few suggestions for conditions of approval:

1. The generators and pollution control equipment must be upgraded every two years to the best technology then available. This is to protect the community from the unfortunate situation we now suffer with the SBPP. (This was a condition of approval of the current plant, but it was shut down instead of being refurbished.

2. All residents and businesses within 1,000 feet must receive a list in Spanish and in English of all possible health impacts from the peaker plant. (Those that cause the sign to be required to be posted on the gate.) For each negative health effect the possible cause also must be listed. Precautions the company will take to minimize these risks can be included in this information. The company should take out insurance to pay claims from residents and near-by workers if anyone in their families develops one or more of these illnesses that the state requires the company to notify residents and businesses in the vicinity about.

3. A notice needs to be given to every business and residence advising them in English and Spanish of the city's Noise Ordinance:

19.68.030 Exterior noise limits. B 3. In the event the alleged offensive noise, as judged by the enforcement officer, contains a steady, audible sound such as a whine, screech or hum, or contains a repetitive impulsive noise such as hammering or riveting, the standard limits set forth in Table III shall be reduced by five dB.

People need to be instructed whom to report this problem to. Also a sound meter needs to be made available to every person who complains so that they can verify the violation. If anyone's doctor verifies the development of one or more of the ailments caused by repetitive, low level noises MMC needs to acknowledge its responsibility, since it has been forewarned of the potential problem and pay for medical expenses.

4. Considering the high percentage of lower income people in the vicinity of this proposed peaker with no or inadequate insurance it is important that MMC provide a copy to all residents and businesses within 1,000 feet of an insurance policy adequate to pay the medical expenses of any and all people who become ill from the negative effects (including psychological) of having a facility such as this in such close proximity.

Sincerely,



Theresa Acerro
President of Southwest Chula Vista Civic Association.



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

6/6/08

RE: Comments on **Soil and Water** of the PSA:

- The proposed water supply for the project, potable drinking water from Sweetwater Authority, would not cause a significant adverse environmental impact on current or future users of the drinking water.

We strongly disagree with this statement. The director of the Sweetwater Authority gave this presentation to our city council highlighting how critical the water situation was. It seems there may be enough for this year, but in 2009 the possibility of mandatory restrictions is looking more and more likely.

<http://www.youtube.com/watch?v=EURk5YSEAAk> The governor's recent declaration of drought also highlights the need to use potable water only for drinking.

<http://www.nytimes.com/2008/06/05/us/05drought.html?hp> How in the world can the CEC staff even think of allowing the waste of so much potable water by a peaker plant proposed for an inappropriate location in an area that does not need peaker power according to its electricity provider, which will not give the company a contract?

- The use of a municipal water supply does not comply with state water policy found in the California Constitution, State Water Resources Control Board Resolution 75-58, and the Energy Commission's *2003 Integrated Energy Policy Report* water policy.

This use is clearly a violation of LORS even the Energy Commissions own LORS!!

- The applicant has not adequately demonstrated that the use of an alternate water supply or cooling technology is environmentally undesirable or economically unsound.

All MMC cares about is its own bottom line. It does not care that it will be putting the citizens of Chula Vista in the position of having to conserve more or that they are wasting a very precious and scarce resource. CEC staff has to care and require that they hook into one of the recycled water lines a few miles to the east. If they hooked into this line it could, perhaps, be used by others for landscaping as well. An alternative would be to truck in recycled water from a place to the east that is connected or directly from the southbay water treatment plant that has a surplus. There are plenty of options and the fact that it will cost MMC some money is not an acceptable reason for not requiring that they use one of these options.

The amount of water-48 million gallons- per year or 116 gallons per minute is totally unacceptable. Staff must use the total number of hours the plant is permitted for in order to meet CEQUA guidelines.

Considering that this peaker is more than twice the size of the old peaker and will use considerably more water will the current ground water detention basin be of adequate size?

The CVEUP will use a maximum of 86 acre-feet a year of potable water. Staff believes that the use of this water will contribute to the cumulative impacts of scarce water supply for the south state. However, the amount of water is modest. Staff does not consider the use of the water to be a cumulatively significant impact.

We strongly disagree with this statement, which is inherently contradictory. This use will contribute to the scarcity in western Chula Vista specifically. In a wet year SWA can supply almost all its water needs from local sources. In this drought it is importing 70% of its supply. There is increasing uncertainty about this imported supply. If staff looks at the CV General Plan they will see the forecast for 7,000 more homes in the southwest and 14,000 in the northwest. This will put an incredible strain on local water resources. SWA is trying to keep up, but with drought conditions this seems uncertain. Wasting drinking water in this way is totally unacceptable. If a way cannot be found to use recycled water this project needs to be rejected in order to help insure the supply for current users.

Using local potable water is a significant cumulative impact when looked at in terms of the projected increase in population for the area.

“The Energy Commission will require zero liquid discharge technologies unless such technologies are shown to be ‘environmentally undesirable’ or ‘economically unsound.’” **How can staff support the use of the municipal wastewater discharge system, considering this policy?** Normally businesses and homes are required to not increase the amount of discharge from their site. It would be a simple matter to require permeable pavement everywhere on site and to use the retention basins to hold the water until it could percolate into the ground. Definitely we have clay soil and water does not percolate well, but some of it could be recycled on site for reuse.

California Constitution, Article X, Section 2, Warren-Alquist Act, SWRCB Resolution 75-58 and Energy Commission’s 2003 *Integrated Energy Policy Report* LORS and water policies applicable

Normally development in Chula Vista is required to have a water conservation plan. This is another example of not following the LORS. CVEUP must conserve water. They **MUST** use recycled water only for non-potable purposes.

Options that should be analyzed more fully include low quality (brackish) groundwater and recycled water. The use of low quality groundwater would require drilling a well and the installation of additional equipment to clean the water. The use of recycled water would require construction of a pipeline to transport recycled water to the CVEUP site.

SWA use brackish groundwater for drinking purposes. It is planning eventually to put a well near the Otay River, but this water is intended to meet drinking water needs for the local populace. The highest and best use of the San Diego Formation Ground Water is for drinking purposes. It would be wasteful to use it for an unneeded power plant in an inappropriate location. Constructing a pipeline is not necessary. The recycled water could be trucked to the site. It is also possible since CVEUP is close to the bay and there is a

heavy dew in the mornings to collect a certain amount of water. The water leaving the peaker as steam could also be collected. There are creative solutions to this problem, but under no circumstances should they be allowed to use potable water.

Conclusions

- The proposed water supply for the project, potable drinking water from Sweetwater Authority, would not cause a significant adverse environmental impact on current or future users of the drinking water.

Considering the LORS, the current drought, and the importance of providing for the future growth in Chula Vista from local resources this statement makes absolutely no sense. This use would cause a huge negative effect.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Acerro', written over a light gray rectangular background.

Theresa Acerro
President of Southwest Chula Vista Civic Association.



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

6/6/08

RE: Comments on **TRANSMISSION LINE SAFETY AND NUISANCE** section of the PSA:

There are a number of problems with the transmission lines themselves. Number one is that they are not being under-grounded. Our community already bears the burden of towers and large metal poles passing through it. People who live at a mobile home park near this transmission corridor complain that the noise wakes them up at night. This likely is because SDG&E does not maintain the lines at all. The lines from the proposed peaker to the substation are not going to be upgraded as recommended and required in this section (**TLSN-3**). Instead the plant will install two cut off breakers to protect the lines from overload. This is unacceptable, since no doubt it will cause noise and elevated electromagnetic waves which are a concern to the employees less than 20 feet away. It is incorrect to state that these lines are fenced in. They run along a private shared driveway with a number of businesses. They are visible from many places in the community and add to the negative image many have of our area. They need to be upgraded and under grounded.



Substation Upgrade

The substation is to be upgraded? This is way too vague. Exactly what is to be done at this substation, which is already ugly, imposing and noisy? Residents in the surrounding homes have gotten used to the noise, but there is a distinctive noise. Will the upgrade increase this noise? The substation is already extremely imposing and ugly and shares a parking lot with a



recreation center. Will the upgrade expand it in size? Add components to it? Make it stand out even more? **The community has a right to know exactly what these changes will entail and what the impacts of them will be.**

Will there be an increase in electromagnetic waves? The substation is right next to a pre-K, the campus of an elementary school and a recreation center. Many people are in close contact with it for long periods of time-especially the homes right across a narrow street. There are wires everywhere. This is not a pleasant place to be. This peaker proposes to make it even worse. Since MMC is not going to be required to upgrade the

transmission lines how can staff say that the lines will be adequate to ensure the health and safety of the people around them? In the event of an overload the plant will be shut down, but might this not cause a spark, which could cause a fire?

In order to reach the substation the lines cross Main Street and are relatively near a residence on Albany; therefore it is incorrect to say there are no close-by residential receptors. Actually it appears the lines cross Main Street along the Albany corridor and actually enter the substation across the street from a home.

The only way to decrease these significant transmission line impacts is for MMC to be required to underground all the transmission lines going into and out of the substation. This would make the substation slightly less prominent. Actually this was never a good place to put a substation. SDG&E has two sets of high voltage lines going through our community with a 500- foot corridor. Why in the world is this substation not within this corridor? This would make a whole lot more sense and be closer to where the power needs to go anyway.

Requirements of Certification

People now say they can here a low whining sound from the existing peaker at night. MMC need to be required to individually notify all businesses and residences within 1,000 feet in English and Spanish of the possibility of interference with radio and television reception. There must be a number to call other than MMC's to report these complaints.

Whenever measures of electromagnetic waves are made the results need to be made available to all residents and businesses within 1,000 feet.

MMC should be responsible for insuring that SDG&E does the proper maintenance on the lines and right of way for them.

All lines into and from the substation and the peaker need to be upgraded and under-grounded.

Sincerely,

A handwritten signature in black ink, appearing to read 'Th. Acerro', written in a cursive style.

Theresa Acerro
President of Southwest Chula Vista Civic Association.



PO Box 6064, Chula Vista, CA 91909, (619) 425-5771

5/28/08

RE: Comments on Visual Quality Section of the PSA for the public record:

Mr. Christopher Myers:



We believe you left off some significant visual viewpoints. This is a view from the corner of Alcova and Teena. There is a gap between the buildings and the new peaker will be close to the gap. Parts of the building as well as the towers will likely be visible from here. The

towers are taller than the electrical pole so they will go as high as the highest pole in the picture. The simulations by MMC are highly inaccurate. **THIS WILL LIKELY HAVE A NEGATIVE EFFECT UPON PROPERTY VALUES. THE MERE SIGHT OF TWO HEAVY INDUSTRIAL TOWERS GIVES THE IMPRESSION OF A FACTORY. IT ALSO MAKES PEOPLE THINK OF UNHEALTHY EMISSIONS.** It says there will be no plume. The existing plant had a very visible plume. From more than a half mile away at the Native Plants Garden at Montgomery High School the plume was visible. It gives people the feeling of living in a lower class heavy industrial area, and no matter what anyone says people believe and fear the contamination from it. <http://www.youtube.com/watch?v=Ux2Iq9KzxT0> <http://www.youtube.com/watch?v=6T43FYPT1SE> This is a huge negative visual impact. All viewers are very highly sensitive to this. You just need to listen to them at the protests and read their letters to see this. The towers will dominate the view from every viewpoint no matter how little of the tower will be seen, and people will be afraid and property values will be reduced. This is an extremely potent way to blight a neighborhood. There is nothing similar to trees about two industrial towers, no matter what color they are painted!!

The backyards on Anzura,



The psychological impact of having two 70 foot towers in your backyard is quite relevant to whether there is a visual impact or not. This family will likely see 40 feet of the top of the towers. It is impossible to say this will not be a significant impact for these families. Now they just have a hint of a building. If this monstrosity is built they will have 40 feet of two large towers, which would go

almost to the top of this picture. This would be VERY dominant. It would change their view entirely. The family is extremely sensitive to this since they have a sickly child that they already believe has been negatively effected in utero by the current peaker when it last operated. There is tremendous view concern in the neighborhood as people have said orally and in writing. This would be very dominant and it would lower property values as well as community pride and self esteem. Smoke stacks conjure up the image of polluting factories. They lower property values and the self- respect of neighbors. This would be a HUGE visual change, a huge concern and a huge degrading of visual quality for all the homes in this residential pocket as well as the ones on North Main Street. <http://www.youtube.com/watch?v=fOuSraebOqc>



This was shot from the corner of Banner and Main. More of the towers will likely be visible than what is portrayed in MMC's visual. The impact will be negative for these businesses, giving the impression of heavy industry. There is no auto recycling yard across the street. Esparza tires sells

tires and does auto repairs. In one easy step this building will go from upscale to harboring something dangerous to the public by sprouting two smoke stacks. Again since water is used in the cooling process there

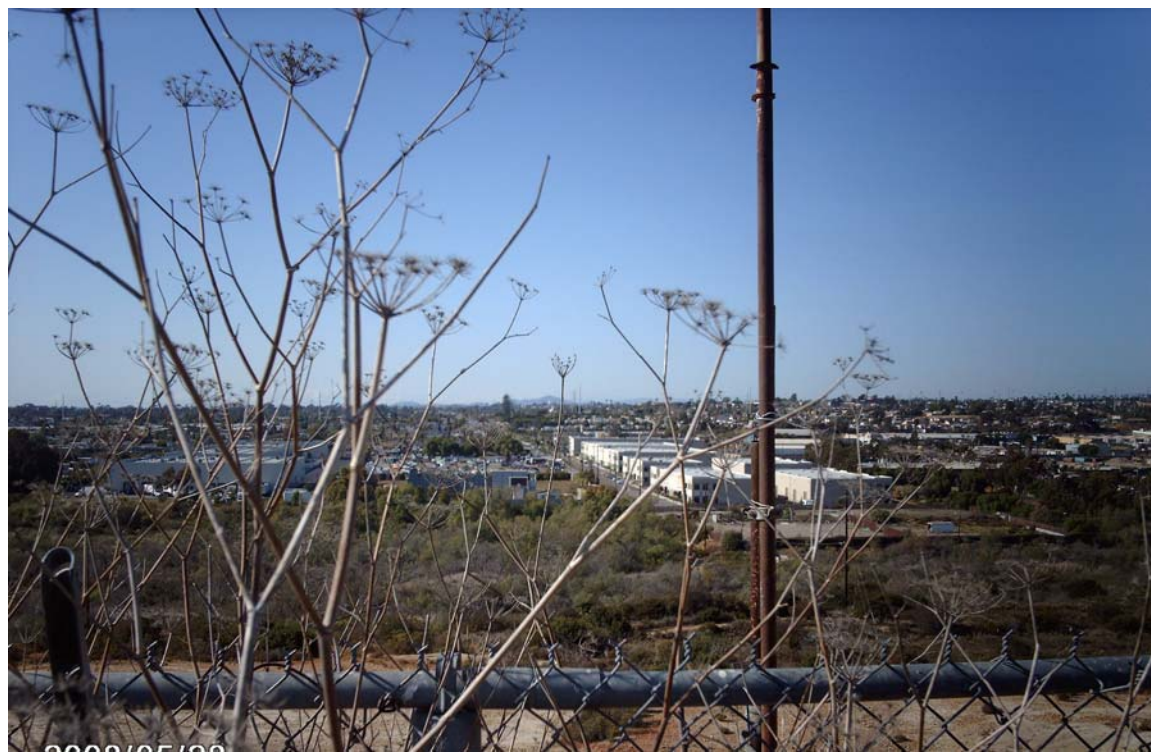
will be steam that causes a visible plume that we will correctly interpret as spreading contamination and something to avoid.



A tiny bit of the building in the back can be seen above the roof of this home on the corner of Teena and Anzura. Taking the picture directly in front of a tree is extremely misleading. The fact is nearly 40 feet of tower will be visible behind these houses right where the other bit of building is seen in this photo. This will really depress property values and people. This heavy industrial use DOES NOT BELONG this near homes.



4.12-12 Indeed MMC has been less than honest with more than the excessive height of trees for KOP 3. Most of their pictures have been deliberately taken from behind a large obstruction. This is unrealistic since people would be able see much more of the towers on the other side of the obstruction and to either side.



From above the fence at the end of Cochran the entire existing peaker is visible. A new larger plant would be totally visible as well even if it is further north on the lot since the towing yard behind is now visible. The view now is of buildings across an open space with the city of Chula Vista in the back and Mother Miguel Mountain off in the distance. The planned facility looks like a large generating plant with two 70 foot tall towers and

would stand out as a heavy industrial blight. It would dominate the view and change the view entirely. It would be a large effect since the current building is partially hidden.

The view now from Anita and Albany is quite impressive now. The addition of two 70 foot towers would dominate the view and change it significantly for the worse.





It is possible to see the electrical power lines to the river. They are not as high as the 70 foot towers would be. It is likely that the plant itself would be visible from most of Albany as well as the 70 foot towers. The people in this neighborhood have made it clear they already dislike and in many cases fear the substation. A better view of a peaker plant is going to be extremely depressing and a source of anxiety, visual blight and further proof of the lack of respect of the city. The dominant feature now is the hills of Tijuana. The new dominant feature would be two 70 foot smoke stacks.





A view from Byer Way of the Otay Valley Regional Park. The existing peaker is a gray box close to the river edge. The rest of the lot can clearly be seen. Most likely the 18-foot wall and the 30- foot high building will be more prominent than this especially with two 70- foot smoke stacks towering above it. The proposed peaker would dominate the view and give a heavy industrial feel to a commercial like sight and an Open Space Park with a new hiking trail.

At night this would particularly stick out like a sore thumb no matter how the lighting was directed.

Staff is over-relying on the submissions of MMC, which are highly biased. Staff also is failing to give credence to the high animosity toward this project in the community, which will make it stand out and be a visual blight. There is also no recognition of property values and how something as ugly and intimidating as this will negatively effect them. People are becoming aware of the peaker and would notice a new one much more rapidly than the existing one has been noticed. <http://www.youtube.com/watch?v=mGUPD6EX5Hg>

<http://www.youtube.com/watch?v=BiMYWeDMnls&feature=related> ,

<http://www.youtube.com/watch?v=JqukXTyCAKg&feature=related> ,

<http://www.youtube.com/watch?v=wJ4qnSZO-EQ&feature=related>,

<http://www.youtube.com/watch?v=ujMoRbGTarE&feature=related>,

<http://www.youtube.com/watch?v=INfVYkZsKKU> As everyone knows people's perceptions are clearly influenced by their emotions. The visual impact of a new peaker would be much, much more negative than that of the existing one, although the businesses 20 feet across the driveway are severely impacted right now and would be more so by a new larger one:

<http://www.youtube.com/watch?v=3kyhMuXN9Mg&feature=related>



A view from Beyer Way further north than above.

I can see the roof and the electric poles from my backyard on Festival Court off of Hilltop a bit over a half mile away. I know I will be able to see the two 70 foot towers as will my neighbors. As mentioned in report the people along Connoley will also have a view of them. This view would negatively impact our entire community. How can staff say number of people effected is not significant? How can you say this visual blight would not be significant?



This is a view from the parking lot of Montgomery Headstart. The existing building blends in somewhat but a new building with two 70 foot towers would be much more imposing , obvious and annoying. When the peaker was operating the plume was very visible and distressing from here. The plume from a large facility with two 70 foot smoke stacks would be even more distressing and obvious. If it uses water, it surely would produce a plume of steam just like the existing plant did.

Sincerely,

A handwritten signature in black ink, appearing to read 'Theresa Acerro'.

Theresa Acerro
President of
Southwest Chula Vista Civic Association.