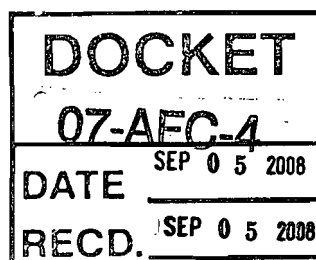


**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA**

**APPLICATION FOR
CERTIFICATION FOR THE CHULA
VISTA ENERGY UPGRADE
PROJECT**

DOCKET NO. 07-AFC-4
(AFC filed 08/10/07)

**MMC CHULA VISTA'S RESPONSE TO THE ENVIRONMENTAL HEALTH
COALITION'S MOTION FOR CHANGE OF VENUE**



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September 5, 2008

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Pursuant to the direction of Hearing Officer Renaud MMC Energy, Inc. ("MMC") provides this response to the Environmental Health Coalition's ("EHC") motion for a change of venue from the City of Chula Vista ("City") Council Chambers to the Otay Recreational Center ("Rec Center"). MMC appreciates EHC's desire to maximize public participation with the venue change; however, maintaining the venue at the City Council Chambers is more conducive to meeting EHC's goal of maximizing public participation due to its superior facilities and site amenities. The City Council Chambers should improve the ability for all those attending the Prehearing Conference and Evidentiary Hearings to hear the comments of the Committee, the parties, the witnesses and the public. Thus, MMC respectfully requests the Committee deny EHC's motion for change of venue and retain the City Council Chambers as the location for the Prehearing Conference and the Evidentiary Hearings.

I. Conducting the Proceedings at the City Council Chambers Will More Effectively Facilitate Public Participation .

A. *The City Council Chambers is in a more well known, central location with better access to public transportation than the Rec Center.*

The City Council Chambers' location is a well known center of City business within the City's urban core next to the police department and a public library. MMC recognizes that the Rec Center is located near the Chula Vista Energy Upgrade Project (the "Project"); however, the City Council Chambers is also near the Project. The City Council Chambers is location only slightly more than four miles from the Project. Given the fact that critics of the Project protested it at City Hall (i.e. location of City Council Chambers) in August, it is clear that

the City Council Chambers' short distance from the Project is not a barrier to participation by Project critics.

In addition to being located in a well known City core, there are twice as many bus routes to the City Council Chambers as compared to the Rec Center: Only two bus lines stop near the Rec Center and these lines only run in the City's western area. In contrast, there are four bus lines within one block of City Hall and some of these routes run throughout the entire City as well as regions outside the City. In fact, one of the bus lines that stops at the Rec Center passes and stops at City Hall also. As a result, not only do communities within and outside the City have access to the City Council Chambers via public transportation, but residents near the Rec Center have a bus line with direct access to the City Council Chambers' location.

- B. *Unlike the Rec Center which is designed for recreation, the City Council Chambers is designed for holding public hearings and has the facilities and amenities to maximize public participation.***

The City Council Chambers is only three years old and has the seating and modern technology to facilitate public hearings. Approximately 154 members of the public can be seated comfortably in the City Council Chambers with an additional 20-25 people seated in an overflow area adjacent to the City Council Chambers. Furthermore, the City Council Chambers are near large parking lots placed around the government center. The Rec Center's small adjacent parking lots have only limited parking. Previous large meetings at the Rec Center have made it difficult for parents to pick up children from the Rec Center. MMC would like to avoid conflicts with others using the Rec Center when possible.

The City Council Chambers' audio visual capabilities are far superior to that of the Rec Center's. Presentations can be displayed on a dedicated screen in the City Council Chambers. With the ability to play presentations from computers, compact disks, and/or flash digital storage devices, the City Council Chambers' technology gives presenters a wide variety of presentation options. In contrast, a portable screen would need to be erected in the Rec Center. Unlike the Rec Center gymnasium's audio system, the City Council Chambers' audio capabilities are designed for participants and presenters at public hearings. In contrast to the sound system that would be used at the Rec Center, microphones are embedded at each council person's seat where the Committee can sit and also at a podium from which the public can present and speak. Members of the public can hear speakers and view presentations easier than at the Rec Center's

gymnasium. At workshops held in the Rec Center, the sound system and acoustics make it difficult for those in the audience to hear the comments of others. Given the local interest in this proceeding, MMC would like those attending the hearings to be able to hear the comments of the Committee, the parties, witnesses and members of the public.

Additionally, translation services and media access is superior to that of the Rec Center. MMC always provided translation services at California Energy Commission (CEC) sponsored workshops at the Rec Center. These services included a professional translator with experience in translating energy proceedings. Nonetheless, the Rec Center does not have the facilities that are available at the City Council Chambers. At the Rec Center the translation tends to blend with the proceedings in English that can create a distraction to both listeners of the translation as well as the proceedings in English. In contrast, the City Council Chambers has a dedicated area for both the translator and listeners of the translation. With this design, the translation can be clearly heard by its listeners because the translation will not blend with the English proceedings. Additionally, unlike the Rec Center, the City Council Chambers has a dedicated room for the media. This room has all the amenities to facilitate media coverage of proceedings. Therefore, holding proceedings at the City Council Chambers will facilitate any media coverage of the proceedings and give users of the translation a better experience.

Another advantage of the City Council Chambers is that it has the technology to allow people not in the City Council Chambers to participate in the hearings and to tape hearings for viewing at later times in various locations throughout the City. People who want to participate at the hearing but cannot be present in the City Council Chambers can call a toll free phone number to participate during the hearing. In contrast, the Rec Center does not have a phone line to the gymnasium and as a result, people not in attendance during prior Project workshops at the Rec Center were not able to participate remotely. In addition to allowing remote participation, MMC will pay the applicable fees to tape the proceedings so that residents who cannot attend the proceedings can view them at a later time. The proceedings can then be watched on computers as well as televisions thereby ensuring all interested people the opportunity to view the proceedings. As such, the City Council Chambers' technological advantage serves to open up participation to and allow viewing of the proceedings in methods that the Rec Center cannot.

II. The City Council Chambers Has Better Facilities and Layout to Conduct the Next Phase of this Proceeding.

The City Council Chambers, as compared to the Rec Center, has superior facilities to conduct the more formal part of this proceeding (i.e. pre-hearing conference and evidentiary hearing) in an orderly fashion consistent with the Committee's, CEC Staff's, MMC's, and the public's expectations. As discussed in part I above, the City Council's audio visual technology is far superior to that of the Rec Center. This superior technology will serve to facilitate the presentation of evidence, direct testimony and cross-examination of witnesses, and public comment, as well as the public's receipt of that information.

The Committee can be seated on a dais in the microphoned councilmember seats and presenters/witnesses can speak from other seats on the dais or speak and display presentations from a microphoned podium. Lighting can easily be dimmed and sound can easily be amplified when necessary. This environment will facilitate the orderly hearing and presentation of evidence. The Rec Center was a sufficient location to conduct the prior workshops. However, as the proceedings enter more formal stages requiring more controls and procedures, the City Council Chambers is the superior location.

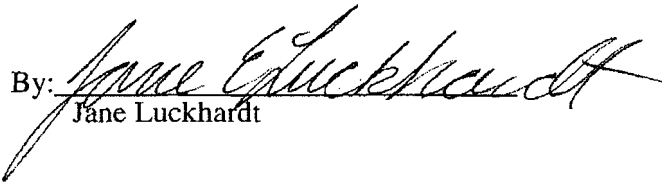
Additionally, holding the proceedings at the City Council Chambers will avoid future disruptions to children's use of the Rec Center. It is necessary to walk through the Rec Center's game/activity room in order to enter the gymnasium where the proceedings have been and would be held. This contact with children gave rise to numerous parent complaints regarding the conduct of Project critics. Some complaints raised concerns regarding Project critics' inappropriate behavior around children. In fact, it is believed that some children playing at the Rec Center were coerced by Project critics into participating in their demonstration. The Project critics' behavior was such that the principal of the Otay Elementary school no longer offered school facilities for proceedings. Conducting proceedings at the City Council Chambers will help preserve the Proceedings' integrity by avoid such parent complaints.

Not only would holding proceedings at the City Council Chambers avoid disruptions to children's use of the Rec Center, but holding proceedings at the City Council Chambers would provide a more secure environment for Project supporters and critics to express their opinions. One or two police officers attend all public meetings at the City Council Chambers and this will be the case with the CEC proceedings.

In light of the City Council Chambers' superior location, access, facilities, site amenities, and security, EHC's motion for change of venue to the Rec Center should be denied and the Prehearing Conference's and Evidentiary Hearing's location should remain the City Council Chambers.

DATED: September 5, 2008

DOWNEY BRAND LLP

By: 
Jane Luckhardt

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**PROOF OF SERVICE
(Revised 7/14/08)**

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

CALIFORNIA ENERGY COMMISSION

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DECLARATION OF SERVICE

I, Lois Navarrot, declare that on September 6, 2008, I deposited copies of the attached **MMC CHULA VISTA'S RESPONSE TO THE ENVIRONMENTAL HEALTH COALITION'S MOTION FOR CHANGE OF VENUE** in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed to those identified on the Proof of Service list above.

OR

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

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



Lois Navarrot