



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV

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

DOCKET No. 07-AFC-4

ORDER No. 09-0617-28

### COMMISSION ADOPTION ORDER

This Commission Order adopts the Commission Decision on the Chula Vista Energy Upgrade Project, which we decline to certify because the proposed project is inconsistent with applicable local laws, ordinances, regulations and standards (LORS).

By this Order, we incorporate as the Commission Decision the following documents: the Presiding Member's Proposed Decision, the Committee Errata, and all exhibits referenced in those documents. The Commission Decision is based upon the evidentiary record of these proceedings and considers the comments received at the June 17, 2009 business meeting. The text of the Commission Decision contains a summary of these proceedings, the evidence presented, and the rationale for the findings reached.

This Order adopts by reference the text, Conditions of Certification, Compliance Verifications, and Appendices contained in the Commission Decision.

### FINDINGS

The Commission hereby adopts the following findings in addition to those contained in the Commission Decision:

1. The Chula Vista Energy Upgrade Project does not comply with applicable LORS and the noncompliances cannot be corrected or eliminated at the proposed site. Therefore, consistent with Public Resources Code section 25523, the proposed project cannot be certified at the proposed site in Chula Vista, California.
2. This Commission Decision contains a discussion of the public benefits attributed to the proposed project as required by Public Resources Code section 25523(h).

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3. The evidentiary record does not support a finding that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity.
4. If this Commission Decision to deny certification should be reversed or modified, the project owner would be required to implement the Conditions of Certification identified in the accompanying text.
5. The proceedings leading to this Decision have been conducted in conformity with the applicable provisions of Commission regulations governing the consideration of an Application for Certification and thereby meet the requirements of Public Resources Code sections 21000 et seq. and 25500 et seq.

### **ORDER**

Therefore, the Commission **Orders** the following:

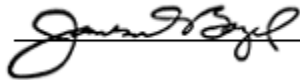
1. The Application for Certification of the Chula Vista Energy Upgrade Project, as described in this Decision, is hereby DENIED.
2. The denial of the Application for Certification means that the project owner shall not be subject to the Conditions of Certification and Compliance Verifications enumerated in the accompanying text and Appendices, unless this Decision is reversed or modified. As a result, the project owner is prohibited from commencing ground disturbance, site preparation, or any construction activities related to developing the Chula Vista Energy Upgrade Project site in Chula Vista, California.
3. This Decision denying certification is adopted, issued, effective, and final on June 17, 2009.
4. Reconsideration of this Decision is governed by Public Resources Code, section 25530.
5. Judicial review of this Decision is governed by Public Resources Code, section 25531.
6. The Executive Director of the Commission shall transmit a copy of this Decision and appropriate accompanying documents as provided by Public Resources Code section 25537 and California Code of Regulations, title 20, section 1768.

7. We order that the Application for Certification docket file for these proceedings be closed effective June 17, 2009, with the exception that the docket file shall remain open for 30 additional days solely to receive material related to a petition for reconsideration of the Decision.

Dated: June 17, 2009, at Sacramento, California.



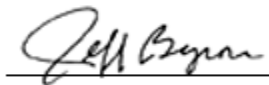
KAREN DOUGLAS  
Chair



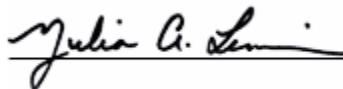
JAMES D. BOYD  
Vice Chair



ARTHUR H. ROSENFELD  
Commissioner



JEFFREY D. BYRON  
Commissioner



JULIA LEVIN  
Commissioner