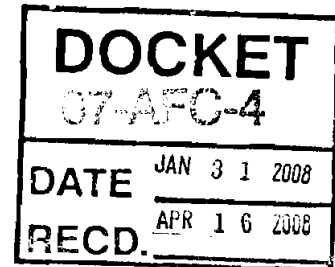




OFFICE OF THE CITY MANAGER

January 31, 2008

Christopher Meyer, Project Manager
California Energy Commission
1516 Ninth Street
Sacramento, CA 95814



RE: Chula Vista Energy Upgrade Project: Document No. 07-AFC-4

Dear Mr. Meyer:

The City of Chula Vista appreciates the opportunity to respond to the California Energy Commission's specific questions and briefly describe the primary issues that the City believes will need to be thoroughly and thoughtfully addressed in the Application for Certification (AFC) process. The City is basing its comments on the information provided through the public workshops and hearings to date.

Chula Vista is also very appreciative of any company that makes a commitment to invest \$80,000,000 in our community. Chula Vista values that commitment even more when it is described as having the potential to address local and regional energy reliability needs. Chula Vista prides itself on having taken a leadership role on energy issues at the local, regional and state level, and in moving forward responsibly on energy infrastructure projects and State energy goals such as the "Loading Order." Chula Vista is equally proud of its leadership and commitment in protecting the public health and the environment. The City greatly appreciates the CEC's past investments in Chula Vista for alternative fuel transportation, energy conservation and sustainable community development projects, and the City appreciates their current efforts to implement an open, transparent and inclusive process as they consider the Chula Vista Energy Upgrade Project Application for Certification.

Chula Vista is currently the host of the South Bay Power Plant 708 Mw, the MMC Peaker 44Mw, Goodrich 9Mw, Otay Landfill 6Mw and approximately 20 miles of regional high voltage transmission line corridors and associated transmission lines, towers and poles. Additionally, the Wildflower/Larkspur-90Mw, Border-Calpeak-49.5Mw and Otay Mesa Calpine-590Mw generation facilities are very close to the City boundaries and generally within its local air shed and area of influence. Chula Vista has a documented history in doing more than its fair share to host large regional facilities and has consistently expressed an interest in working with energy regulators, CEC

developers, the Investor Owned Utility and our citizens in identifying the correct location and technologies that will provide energy reliability and protect the public health and interest. The Chula Vista City Council has not taken an official position on the proposed project. City Staff believes that they and the City Council need to receive the facts that will be established and analyzed under the CEC Staff Assessment Process before the City can provide informed answers to the questions asked by the community, the CEC and the Applicant. Staff has prepared the following comments to contribute to the Assessment and ultimately provide Council with the facts they should have before taking a position. The investment the Commission is making in local workshops, resident participation and City Staff will provide the community and City Council with the facts and perspective needed to make an informed contribution and recommendation prior to the Commission's decision.

Energy Commission Questions – December 26, 2007 Letter

The City will require more time to respond definitively to the CEC's questions regarding the specific Land Use, Visual Resource, Traffic and Transportation questions asked in the CEC's December 26, 2007 correspondence for the same reasons cited above. However, City Staff hopes that the following response will help answer some of CEC Staff's questions.

The existing facility was permitted under a Special Use Permit, issued by the Redevelopment Agency under the Direction of the Community Development Department. The City's Community Development Department has been reorganized and the land use planning functions are now part of the City Planning Department, where that process is referred to as a Conditional Use Permit (CUP). The original project review process also established an Owner Participation Agreement (OPA), between the City and the Applicant, both of which the City has forwarded to the CEC. To the best of our knowledge, the original project did not include a Precise Plan. The City would require a CUP, OPA, Building permits and potentially Engineering grading, encroachment and demolition permits, and a recycling and solid waste diversion report if this project were being considered under the City's process.

CEC Staff is accurate in its description of the Limited Industrial-(IL) zone in the Issues Identification Report and other correspondence regarding the project. The CEC is also correct when it states that "heavy" uses such as the proposed power plant are "not specifically listed as a permitted use or conditional use for the site and laydown areas." CEC staff also accurately identifies the proximity of the proposed project to sensitive resources that will be restored and developed to improve the character of the community throughout the redevelopment process, such as; the Green Belt Master Plan, the Otay Valley Regional Park Plan and Design Guidelines, and the Multiple Species Conservation Plan. The City would also direct the CEC to the Redevelopment

Plan for the area to better understand the community's vision for this part of the City and the long range, transitional perspective required to affect the community's desired change through the redevelopment process. The Redevelopment Plan is another important document that establishes a Plan for the area and demonstrates that the Plan was developed through an open, transparent and inclusive public process.

CEC staff and the Applicant have also made reference to the General Plan Policy E6.4, which recommends that the City 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. CEC staff and the Applicant have accurately identified that the habitat area, several households to the west and one household to the north are within the 1,000 foot recommended buffer. However, there are discrepancies between the Applicant's and the CEC's preliminary communications about whether the project is a "Heavy" or "Light" Industrial use and whether the Application for Certification (AFC) uses appropriate benchmarks for determining some of the projects more significant potential impacts. City Staff is participating in the Assessment process in part, to obtain the benefit of the CEC's analysis and will be better prepared to respond as to the intent and spirit of the General Plan policy when the CEC's analysis explains what the net impact of the proposed project will be on the community. The CEC air modeling work is one important example of the CEC's invaluable analysis that the City is counting on for its review.

City Staff is working on the Traffic and Transportation and Visual Resource sections and expects to get back to the CEC staff with an initial response in a matter of weeks. City Staff has a few initial comments regarding completeness. It would be instructive if as part of the Traffic and Transportation section, CEC or the Applicant would provide a review of the number of sensitive receptors that are within 1,000 feet of the traffic route between Interstate 5 and Interstate 805 to the proposed site and the alternate sites. It would also be helpful if the CEC or Applicant were to include a review of the traffic incident report for Main Street, Chula Vista between these Interstate Freeways regarding vehicles that are similar in size to the aqueous ammonia delivery trucks and larger vehicles. The Visual Resource Section of the Executive Summary identifies "The most prominent visual features of the CVEUP will be the stacks, at 70 feet." That is the primary area in the AFC where the height is identified. It would be helpful if the height were identified on Figure 1; Proposed Project Elevations and if the Applicant developed an overlay to compare the proposed project to the current project. It would also be helpful if the Applicant added a couple of view simulations from the adjacent Green Belt and OVRP areas where the community expects to develop trails and/or recreation areas in the future. It would be very helpful if the CEC and Applicant used these resources at future public meetings to describe the project and respond to the relevant public inquiry.

Issues Identification – Potential Major Issues

City Staff greatly appreciates the CEC's initial work with the Issues Identification Report (Report) and generally agrees with their statements regarding potential issues. Regarding Air quality, staff supports the Report's arguments regarding mitigating non-attainment pollutants and their precursors (*Ozone, PM10, PM2.5) to at a minimum 1:1 basis, and establishing the more accurate baseline, based on actual emissions of the existing plant. As a founding member of the United Nations effort to prevent global warming, the City is also engaged in an effort to reduce CO2 and other greenhouse gases by 20% of 1990 levels by 2012. The City and community are particularly sensitive to the CEC's effort to enforce these issues and ensure the use of best available technologies. The original facility was permitted under a different owner with the expectation that it would install new equipment with the cleanest available technology. The previous owner of the Chula Vista project installed used turbines that turned out to generate significantly more pollutants than LM6000 engines that were simultaneously being proposed and installed by a different peaker project just a few miles to the south in a much more rural and less populated area that is not adjacent to a significant habitat and recreation area. The CVEUP Applicant has demonstrated the air quality benefits that the LM6000 have over the used Pratt & Whitney turbines installed in Chula Vista. Staff believes that, due to its proximity to sensitive receivers, the Assessment process should consider a higher residential and habitat noise and air quality standard and ensure that the best available technology and equipment are being used in the design for the proposed project. When presenting to the Council and community, the Applicant has also referred to the project's ability to reduce the RMR on the South Bay Power Plant (SBPP) and assist with the plant's removal. As previously discussed, City Staff is actively engaged in working with the local utility, CAISO and others to remove the SBPP and is eager to hear from the CEC and Applicant through the Assessment process what if any impact this project may have on that effort and how that can be documented.

City Staff also support the CEC's 2003 integrated Energy Policy Report (IEPR) and the State policy; "the Energy Commission will approve the use of fresh water for cooling purposes by power plants which it licenses only where alternative water supply sources and alternative cooling technologies are shown to be environmentally undesirable or economically unsound." City Staff would also direct the CEC Staff to the 2005 IEPR that impressed the nation by revealing that 19% of all electricity and 35% of all natural gas consumed in the State is connected to the transfer, treatment and heating of water. These are particularly important issues in drought sensitive Southern California. The opportunity to develop complimentary energy/water projects is key to the region. As the City leads the movement away from bay cooled power we are also working cooperatively with our local water agencies. The proposed project site is adjacent the Otay River that makes up the southern boundary of an ancient aquifer. The Sweetwater Authority has been working with US Geological Survey to expand their industry leading

ten-year history in brackish water treatment, which draws from the aquifer under Chula Vista and the proposed CVEUP. Commissioner John Geesman, water officials and environmentalists agreed that brackish water treatment is a key tool in California's energy and water solutions at the UC Santa Barbara Bren School Water/Energy Summit in 2007. Additionally, Otay Water district has recently installed a pipeline capable of transferring up to 12 million gallons per day of reclaimed water approximately 1.5 miles to the east of the proposed project site. Working together we can find complimentary energy and water solutions for our region.

Much like the relationship between water and energy generation, communication and thoughtful planning is a key to providing ratepayers, taxpayers and the community with the best value for their investment when it comes to transmission planning. City Staff is very interested in learning more about the changes required at the local substation and for any interconnection to the substation or "down stream" transmission impacts. The City has made it clear to the applicants at the proposed site for several years that it would prefer to see the transmission lines from the project site to the substation underground. The City has recently invested significantly in undergrounding almost all the transmission and distribution infrastructure along Main Street from Interstate 5 to Nirvana Avenue over two miles to the east past the project site. The City has also invested significantly in a franchise agreement with SDG&E that emphasizes a 20A undergrounding program and substation beautification project that appears to overlap the list of potential transmission related issues for this project. City Staff is interested in assuring that any investment in the energy transmission infrastructure, including substations, is consistent with those agreements and makes efficient and effective use of ratepayer investments in those projects.

City staff has also made the Applicant aware of the Municipal Code regarding the City's gas and electric franchise agreements, related franchise fees and the Utility User Tax. The City has asked the Applicant to affirm their recognition and commitment to pay these fees and comply with other local regulations and codes by addressing them in the AFC. To the best of our knowledge that has been done for property tax, redevelopment tax increment and sales tax, but not the other local tax and fee issues.

CEC Request for Potential Conditions

In its December 26, 2007, letter the CEC asked the City "what conditions the City would attach to this project were it the permitting agency." Although staff has not received direction from City Council regarding potential conditions and all the facts and conditions regarding the project are not yet known, the following list represents a range of potential issues that City Staff would have discussed with the Applicant to consider incorporating in the project CUP and OPA. The determination of which of the items would ultimately be included in the final CUP and OPA would have been based on the City's analysis of the net impact of the project on the community:

1. Work with the Applicant to ensure that the proposed project is on the best site within the City that meets the Applicants financial goals as well as the Investor Owned Utilities needs, Resource Adequacy needs and the community's health, safety and aesthetic needs,
2. Work with the Applicant to identify an opportunity for the site to provide distributed and/or over the fence generation options to the neighborhood with renewable resources, combined heat and power or district heating and cooling and similar generation options,
3. Underground transmission lines from project site to substation,
4. Improve curb and gutter at Main St for front parcel,
5. Identify other structural and technical options that reduce noise levels to at or below acceptable residential and habitat standards, and aesthetically compliments the local Redevelopment Plan and Green Belt Master Plan goals and objectives,
6. Re-align the fence on the project's southern property line to provide for a future trail segment, viewing area and or operations center for the Greenbelt,
7. Contribute approximately 1 acre of land along the project site/riverfront to the City for Green Belt access and operations,
8. Work with the City's Redevelopment Agency to identify local commercial air quality mitigation projects with local businesses to improve local air quality and create neighborhood jobs,
9. Work with City Staff to identify public facility air quality mitigation projects that improve local air quality and allow the City to expand or improve local community services,
10. Use reclaimed water or contribute a fair share to the process for extending reclaimed water lines, increasing local water reclamation or expanding the brackish water treatment programs in the immediate area,
11. Follow the State Loading Order;
 - Fund a neighborhood conservation project (administered by the City Energy Conservation Program) to help residents and businesses- conserve energy (tiered/phased based on actual operating hours),

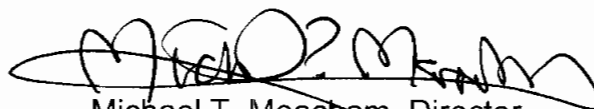
- Add PV at the Recreation Center to offset 50% of energy consumption to provide service to community (City CEC loans-payment by Applicant)
 - Add 1 Mw of Solar PV or other non-fossil fuel generation resource that will contribute to the projects ability to meet their component of the City's greenhouse gas emissions reduction,
12. Contribute to the City's MSCP restoration and maintenance fund based on the project's ultimate air and noise impacts (tiered/phased based on actual operating hours),
13. Explore public private financing funding by the Applicant for applicable public benefit portions.

The Chula Vista City Council has not taken a formal position on the CVEUP proposal. The comments above are submitted as the City Staff's best faith effort to respond to the Commission's request for participation at this early stage in the process before all of the facts, potential impacts and benefits of the project are presented. City Staff greatly appreciates this opportunity and fully expects the City to provide the Commission with informed input and otherwise meet the intent and spirit of the Assessment process. Staff also expects to provide a timely recommendation to Council when all the facts are presented and the City Staff and public have had an opportunity to review them. Thank you again for your time and consideration.

Sincerely,



Scott Tulloch, Assistant City Manager



Michael T. Meacham, Director
Conservation & Environmental Services

cc: Bart Miesfeld, Sr Assistant Attorney, City of Chula Vista
Paul C. Richins, Jr., Manager Environmental Office, Energy Facilities Siting
Division
Proof of Service List