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<b>DOCKET</b> 07-SPPE-2	
<b>DATE</b>	FEB 15 2008
<b>RECD.</b>	FEB 15 2008

February 15, 2008

**VIA E-MAIL AND U.S. MAIL**

Mr. James Boyd, Vice Chair  
Mr. Arthur Rosenfeld, Commissioner  
California Energy Commission  
1516 Ninth Street, MS-12  
Sacramento, CA 95814

Re: Information for Status Conference on February 19, 2008  
Docket No. 07-SPPE-2, Orange Grove Energy, L.P.

Dear Commissioners:

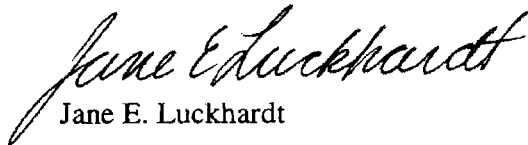
Orange Grove Energy, L.P. ("Orange Grove") has heard the concerns expressed by the Committee regarding water use for inlet cooling and also heard concerns expressed by local businesses and residents. The Committee and Commission Staff expressed concerns because the project did not propose reclaimed water for use in the cooling towers. Orange Grove negotiated an agreement with Fallbrook Public Utility District ("Fallbrook") to provide wastewater for use in the cooling towers. Orange Grove filed on January 4, 2008 a project update to reflect Orange Grove's agreement with Fallbrook and proposal to use wastewater for inlet cooling.

Furthermore, Orange Grove heard concerns expressed by local businesses and residents regarding traffic disruptions on State Route 76 due to the gas pipeline construction along this roadway. As a result Orange Grove has evaluated and now proposes an improved gas pipeline route (approximately 2 miles in length) that does not involve disruptions to State Route 76. A short summary of the improved route and the improved route alignment are attached. Because this new route modifies the permits required for the project and the timeline for project permitting, Orange Grove has also provided a revised permitting schedule reflecting this change.

Orange Grove would like an opportunity to describe the improved gas pipeline route as well as the revised water supply for the project during the status conference on Tuesday. Orange Grove requests an addition to the agenda either before or after agenda item II for Orange Grove to provide this update to the Committee and the other parties. Orange Grove thanks the Committee in advance for the opportunity to provide this update.

Very truly yours,

DOWNEY BRAND LLP



Jane E. Luckhardt

JEL:ln

cc: Kenneth Celli, CEC Hearing Officer  
Docket Office  
Service List

## ORANGE GROVE ENERGY, LP

### IMPROVED NATURAL GAS PIPELINE ROUTE TO THE PROJECT

#### 1.0 INTRODUCTION

The Small Power Plant Exemption Application for the Orange Grove Project proposed construction of an approximately two mile long natural gas pipeline along State Route (SR) 76. Orange Grove Energy, LP (“Orange Grove Energy”) discussed construction of the pipeline with Caltrans as well as local businesses and residents. Consulted parties expressed concerns about the impact of construction along SR 76 due to the restricted traffic flow that would result from the construction activities. Orange Grove Energy has responded to these concerns by identifying an improved gas pipeline route through predominately disturbed ground to minimize impacts to sensitive areas and SR 76. The following describes the route and permitting impacts of the natural gas pipeline route change.

#### 2.0 IMPROVED GAS PIPELINE ROUTE

The improved gas pipeline route is shown in the attached Figures 1 and 2A through 2E. Work is currently underway to design the pipeline. Starting from the west, the gas pipeline will originate near the intersection of State Route 76 (SR 76) and Rice Canyon Road. The initial approximately 0.3 miles of the pipeline will parallel SR 76. This segment of SR 76 is relatively straight and in farmland terrain that does not pose particular construction or traffic control issues because the terrain is flat. The pipeline would be installed by trench and backfill method. This segment of the pipeline is expected to be located entirely within disturbed area. There would be no ground disturbance to any natural habitat.

Approximately 0.3 miles east of Rice Canyon Road, the improved gas pipeline route will turn south, cross the Caltrans right-of-way and continue east across private property along existing roads and disturbed lands. This portion of the pipeline would also be installed by trench and backfill method. South of SR 76, the pipeline will traverse lands owned by San Diego Gas & Electric Company (SDG&E) and Gregory Canyon Ltd. Orange Grove Energy, LLC has had discussions with both of these land owners and they are amenable to routing the pipeline through their property. The pipeline route will follow existing roads through two former dairy properties (see Figures 2A, 2B and 2C) and along an existing road through a riparian area between the dairy properties. The route has been surveyed and it has been confirmed that the road is continuous through the riparian area so that there will be no ground disturbance to natural habitat.

Approximately 0.4 mile southwest of the existing Pala substation, the improved gas pipeline route will leave the dairy properties and cross to the north side of SR 76 (See Figure 2D). The crossing will be installed with underground boring so that there will be no traffic disruption to SR 76. From this location the pipeline will primarily follow existing roads over a ridgeline and then down to the Pala substation. Short segments of the route, totaling approximately 400 feet, would traverse coastal sage scrub. This

portion of the route is designed to avoid sensitive riparian habitat that occurs south of SR 76.

From the south corner of the substation, the improved pipeline route would traverse SDG&E property outside of the SR 76 right-of-way to the plant site. The biological resources in this area between the substation and the plant site were assessed in the SPPE application and subsequent information submitted to CEC, and there would be no ground disturbance to natural habitat.

### 3.0 PLAN TO ASSESS AND ADDRESS IMPACTS AND ADDITIONAL MITIGATION

The improved gas pipeline route will reduce construction impacts to traffic on SR 76 because the pipeline will no longer be constructed in the roadway or along the portions of the roadway that are narrow with constraining topography. Based on discussions with Caltrans staff, the improved pipeline route is expected to substantially simplify traffic control during construction. Orange Grove Energy, LLC will submit a supplement to the SPPE Application that will fully address differences in impacts that will occur with the improved pipeline route. Baseline studies are underway. Based on initial evaluations, the improved pipeline route will not result in any impacts that cannot be mitigated to a level that is less than significant. Key environmental parameters to be addressed in the supplement include biology and cultural resources.

Cultural resource survey work has been completed and no cultural resources were identified within 100 feet of the improved pipeline route. Therefore, cultural resources are not expected to be impacted.

General biology field work has been conducted and a report is being prepared. Surveys to delineate jurisdictional waters are underway. The pipeline is expected to impact less than 0.5 acre of federal jurisdictional waters making it eligible for Clean Water Act Section 404 Nation Wide Permit (NWP) that is designed to streamline the permitting process for certain types of projects that have minimal impact. NWP No. 12 is applicable to utility line activities including gas pipelines that disturb less than 0.5 acre of jurisdictional waters.

Focused surveys for the California gnatcatcher, Least Bell's vireo, southwestern willow flycatcher, and arroyo toad will need to be completed for the improved pipeline route. If these species are found to be present in proximity to the pipeline route, it is expected that the project will be able to mitigate impacts to a level that is less than significant, since the amount of ground disturbance to any natural habitat will be minimal, and indirect impacts are avoidable or can be mitigated (e.g., through noise fences, avoiding breeding season, or other measures). The Section 404 NWP will provide a federal nexus for Section 7 consultation with USFWS, if needed.

Each of the other environmental resource areas addressed in the SPPE application has also been evaluated by the project team, and none were determined to have the potential for the improved gas pipeline route to result in significant impacts.

#### 4.0 SCHEDULE

The improved gas pipeline route will impact a small additional amount of coastal sage scrub habitat and a small amount of federal and state jurisdictional waters. In addition, it will result in the potential for short-term indirect impacts (e.g., construction noise) to a short segment of riparian area that may have the potential for occurrence of sensitive species. For these reasons, several permits and agency approvals will be required for the improved pipeline route that would not have been required for the project with the pipeline as originally proposed. These include a Section 404 NWP, a Section 401 water quality certification, and Section 106 consultation with the State Historic Preservation Office. In addition, the likelihood of the need for Endangered Species Act Section 7 consultation is increased. The Army Corps of Engineers will initiate consultation with USFWS, and USFWS will determine if formal consultation and a Biological Opinion will be needed. A streambed alteration agreement from California Department of Fish and Game was already required for the project due to boring underneath a normally dry drainage for installation of the transmission line interconnection, but the scope of this agreement will be expanded since the improved gas pipeline route will affect additional State jurisdictional waters. With oversight by these agencies and mitigation incorporated, as needed, the project will be designed and constructed to avoid significant impacts to the environment. While the involvement of these additional agencies will affect the project permitting schedule, the Applicant has judged that the project and the public overall will be better served with the improved pipeline route due to the construction traffic issues being mitigated through the improved pipeline route.

Table 1 provides an overall schedule for the remainder of the Orange Grove Project permitting process with the improved pipeline route incorporated.

**TABLE 1  
ORANGE GROVE PROJECT PERMITTING SCHEDULE  
WITH IMPROVED GAS PIPELINE ALIGNMENT**

ITEM	2008							
	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP
<b>Jurisdictional Waters Delineation</b>								
Field Work/Report	██████████							
Army Corps Review & Approval		██████████						
<b>Biological Surveys Field Work &amp; Reports</b>								
General Biology	██████████							
Gnatcatcher (9 Surveys)	██████████	██████████	██████████	██████████	██████████			
Least Bell's vireo (8 Surveys)			██████████	██████████	██████████			
Southwestern Willow Flycatcher (5 Surveys)				██████████	██████████			
Arroyo Toad (6 Surveys)			██████████	██████████	██████████			
<b>Cultural Survey Field Work &amp; Report</b>	██████████							
<b>SPPE Application</b>								
File Application Supplement		◆						
Staff Review/Data Requests & Response			██████████	██████████				
Issues Resolution Workshop					◆			
Draft Initial Study (IS) Filed						◆		
Draft IS Workshop & Public Comments						██████████		
Prehearing Conference							◆	
Notice of Intent/Final IS							◆	
Evidentiary Hearings							◆	
Proposed Decision								◆
Comments to IS and Proposed Decision								◆
Commission Decision								◆
<b>404 Nationwide Permit</b>								
Submit Application		◆						
Army Corps Processing/Permit Issued			██████████	██████████	██████████	██████████	██████████	██████████
<b>401 Water Quality Certification</b>								
Submit Application			◆					
RWQCB Processing/Certification Issued			██████████	██████████	██████████	██████████	██████████	██████████
<b>1602 Streambed Alteration Agreement</b>								
Submit Application			◆					
DFG Processing/Agreement Issued			██████████	██████████	██████████	██████████	██████████	██████████
<b>Section 7 Consultation</b>								
Army Corps Initiates			◆					
USFWS Review/Consultation			██████████	██████████	██████████	██████████	██████████	
Submit Protocol Survey Information						◆		
Biological Opinion								◆
<b>Section 106 Consultation</b>								
Army Corps Initiates			◆					
SHPO Review/Consultation			██████████	██████████	██████████	██████████	██████████	
<b>MUP Application</b>								
File Application Supplement				◆				
County Processing/MUP Issuance				██████████	██████████	██████████	██████████	██████████
<b>Air Pollution Control Permit</b>								
Application Processing (ongoing)	██████████	██████████						
Permit Issuance								◆
<b>Caltrans Encroachment</b>								
Engineering and Application Preparation			██████████	██████████				
Caltrans Data Adequacy Review					██████████			
Supplemental Filing (Final IS)						◆		
Application Processing/Permit Issuance							██████████	██████████

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

**APPLICATION FOR SMALL POWER  
PLANT EXEMPTION FOR THE  
ORANGE GROVE POWER PLANT**

DOCKET NO. 07-SPPE-2  
(SPPE filed 10/10/07)

**PROOF OF SERVICE  
(Revised 10/16/07)**

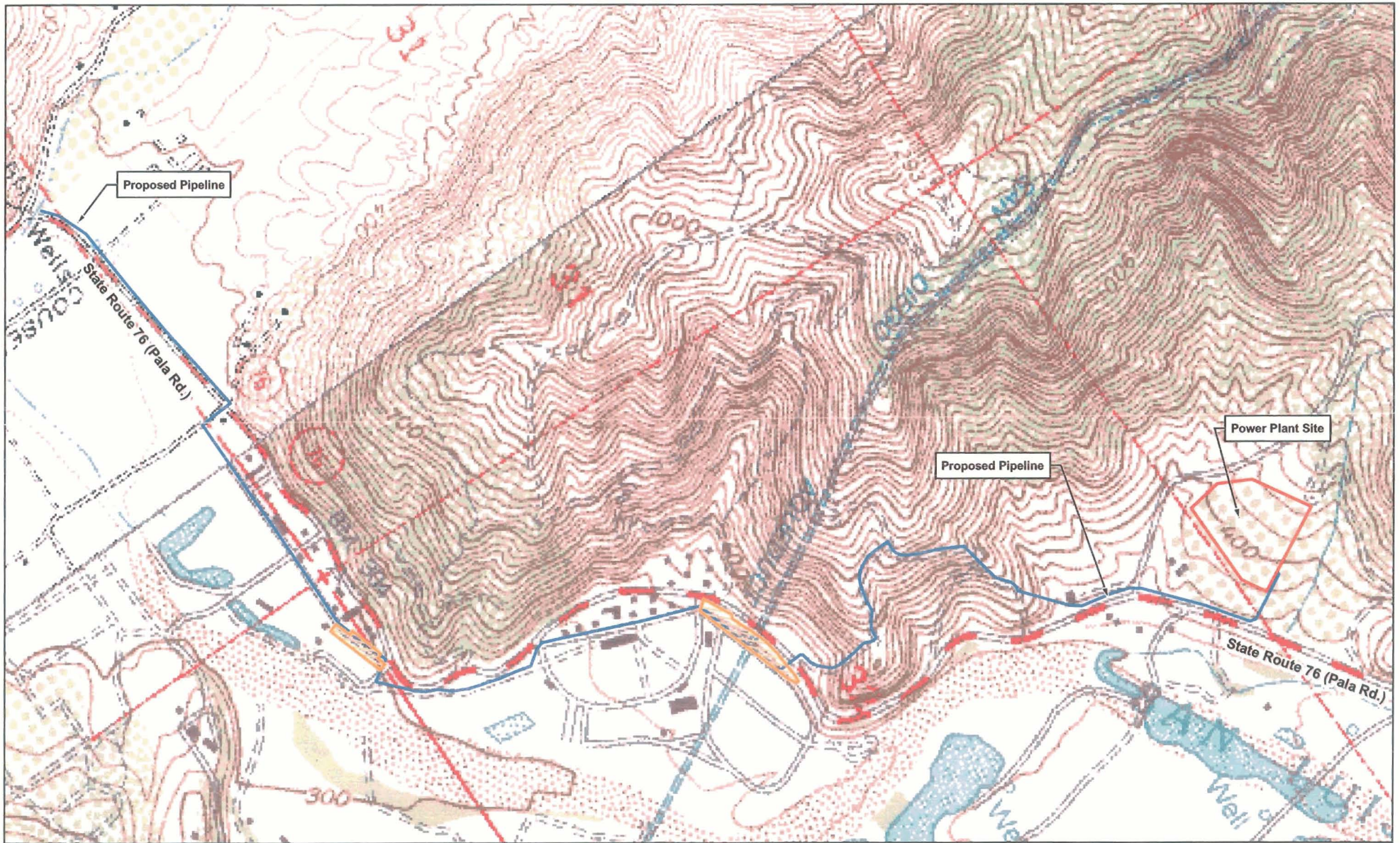
INSTRUCTIONS: All parties shall either (1) send an original signed document plus 12 copies or (2) mail one original signed copy AND e-mail the document to the address for the Docket as shown below, AND (3) all parties shall also send a printed or electronic copy of the document, which includes a proof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

CALIFORNIA ENERGY COMMISSION  
Attn: Docket No. 07-SPPE-2  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

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<p>Mike Dubois J-Power USA Development 1900 East Golf Road, Suite 1030 Schaumburg, IL 60173 <a href="mailto:mdubois@jpowerusa.com">mdubois@jpowerusa.com</a></p>	<p><b><u>COUNSEL FOR APPLICANT</u></b></p> <p>Jane Luckhardt Downey Brand, LLP 555 Capital Mall, 10th Floor Sacramento, CA 95814 <a href="mailto:jluckhardt@downeybrand.com">jluckhardt@downeybrand.com</a></p>

<p><b><u>APPLICANT CONSULTANT</u></b></p> <p>Uday Singh, Vice President                  TRC                  21 Technology Drive                  Irvine, CA 92619  <a href="mailto:usingh@trcsolutions.com">usingh@trcsolutions.com</a></p>	<p>Wayne Song                  Morgan, Lewis &amp; Bockius LLP                  300 S Grand Avenue, 22nd Floor                  Los Angeles, CA 90071  <a href="mailto:wsong@morganlewis.com">wsong@morganlewis.com</a></p>
<p>Joe Stenger, PG, REA                  TRC                  2666 Rodman Drive                  Los Osos, CA 93402  <a href="mailto:jstenger@trcsolutions.com">jstenger@trcsolutions.com</a></p>	<p><b><u>INTERESTED AGENCIES</u></b></p> <p>Larry Tobias                  Ca. Independent System Operator                  151 Blue Ravine Road                  Folsom, CA 95630  <a href="mailto:LTobias@caiso.com">LTobias@caiso.com</a></p>
<p>Electricity Oversight Board                  770 L Street, Suite 1250                  Sacramento, CA 95814  <a href="mailto:esaltmarsh@eob.ca.gov">esaltmarsh@eob.ca.gov</a></p>	<p><b><u>ENERGY COMMISSION</u></b></p> <p>JAMES D. BOYD                  Presiding Member  <a href="mailto:jboyd@energy.state.ca.us">jboyd@energy.state.ca.us</a></p>
<p>Steve Taylor                  San Diego Gas &amp; Electric                  8306 Century Park Court                  San Diego, CA 92123  <a href="mailto:srtaylor@semprautilities.com">srtaylor@semprautilities.com</a></p>	<p>ARTHUR ROSENFELD                  Associate Member  <a href="mailto:pflint@energy.state.ca.us">pflint@energy.state.ca.us</a></p>
<p><b><u>INTERVENORS</u></b></p> <p>Gloria D. Smith                  Marc D. Joseph                  Adams Broadwell Joseph &amp; Cardozo                  601 Gateway Boulevard, Suite 1000                  South San Francisco, CA 94080  <a href="mailto:gsmith@adamsbroadwell.com">gsmith@adamsbroadwell.com</a></p>	<p>Kenneth Celli                  Hearing Officer  <a href="mailto:kcelli@energy.state.ca.us">kcelli@energy.state.ca.us</a></p> <p>Felicia Miller                  Project Manager  <a href="mailto:fmiller@energy.state.ca.us">fmiller@energy.state.ca.us</a></p>









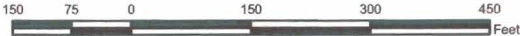
Proposed Pipeline

State Route 76 (Pala Rd.)

Jamies Lane

Couser Canyon Road

1 inch equals 150 feet







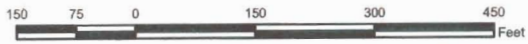
Proposed Pipeline

State Route 76 (Pala Rd.)

Jamies Lane

Staging Area

1 inch equals 150 feet



Orange Grove Energy, LP  
Orange Grove Project

FIGURE 2B  
GAS PIPELINE MAP ON AERIAL PHOTO - FRAME 2











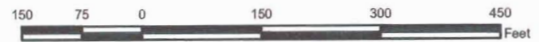
Proposed Pipeline

Pala Substation

State Route 76 (Pala Rd.)  
Staging Area

State Route 76 (Pala Rd.)

1 inch equals 150 feet



TRC  
41 TECHNOLOGY DR  
ORANGE, CA 92668  
TEL: 949.777.8888

Orange Grove Energy, LP  
Orange Grove Project

FIGURE 2D  
GAS PIPELINE MAP ON AERIAL PHOTO - FRAME 4





Note:  
Between the Pala Substation and the Power Plant Site the Gas Pipeline will be located on SDG&E land outside of the Caltrans right-of-way.

