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Energy, Inc

March 31st, 2008

Mr. Kenneth Celli
California Energy Commission
1516 Ninth Street, MS-12
Sacramento, CA 95814

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07-SPPE-2	
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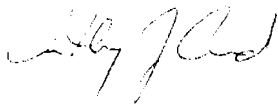
Re: Orange Grove Energy Project Brief

Dear Mr. Celli,

The attached document is my response to the Notice of the Committee Order and Tentative Decision for the Orange Grove Energy Project, Docket No. 07-SPPE-2.

Once again, I would like to thank you, Staff and the Commission for the opportunity to participate in this process, and please contact me with any questions or clarifications that Staff may have regarding my submission.

Sincerely,



Anthony J Arand
CEO

Introduction

On March 10th, 2008, the Orange Grove Committee issued a tentative decision recommending the denial of the application for a small power plant exemption submitted by the applicant, Orange Grove Energy LP. As part of the tentative decision, the committee ordered all parties to submit briefs in response to the tentative decision.

Discussion

This Intervenor would recommend that the Orange Grove Application for a Small Power Plant Exemption be denied, as the SPPE process is not the appropriate permitting procedure for this Project in San Diego County. This Intervenor would recommend that the AFC under Title 20, Appendix B, is the appropriate permitting route for this project.

The San Diego County Dept. of Land Use code describes this Project as a “Major Impact Service and Utilities”, which requires a Major Use Permit and a full Environmental Impact Report to be completed if the project is under the jurisdiction of the County of San Diego. In the County of San Diego, a full EIR is typically a 36 month long process, with two separate 6 month duration public comment periods, separated by a 6 month processing and response period. The Applicant has incorrectly portrayed the timelines involved in a full EIR in San Diego County, and has not produced any information or documentation to prove that it is exempt from the traditional EIR process and timelines.

This land use code from the Lead Agency for this Project, the County of San Diego, should help to answer Staff’s questions as to the appropriate interpretations of law and precedent that should be applied to the Proposed Project.

In the County of San Diego, the proposed Project can be developed on almost any parcel type, with a Major use permit and EIR, as the County of San Diego recognizes that the proposed use, Gas Turbine Power Plant, indeed does have the potential for significant environmental impacts under the definitions used in the Dept. of Planning and Land use Codes, section 1350. The Applicant has not provided any documentation to the contrary from the County of San Diego, and therefore does not qualify for the SPPE process in the first place.

It is my understanding of the intent of the SPPE process is to provide an expedited permitting path for projects that can *clearly* demonstrate that there are no major potential environmental impacts that can come from the project, if the local permitting process requirements can be met and do not require a full EIR.

The Orange Grove Project has not been successful in demonstrating this basic tenant, and therefore, does not qualify to be included in the SPPE process and should be denied.

In the SPPE application paperwork, as any permit application paper work in the State of California, the applicant must sign that the application is accurate and *appropriate* for the permit being sought, and that the information submitted is truthful.

The burden of proof is upon the applicant, NOT the Agency, to demonstrate the appropriate permitting path is followed, and this burden of proof clearly has not been met by the Orange Grove project, as I have pointed out in my data request document.