



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  
**ORANGE GROVE POWER PLANT PROJECT**  
 BY **ORANGE GROVE ENERGY, LLC**

DOCKET No. 08-AFC-4

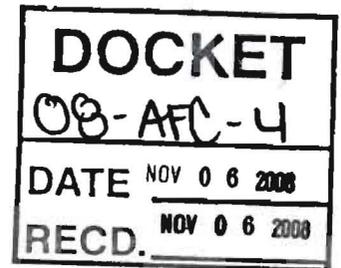
**NOTICE OF PREHEARING CONFERENCE AND NOTICE OF EVIDENTIARY HEARING**

**PLEASE TAKE NOTICE** that the Committee designated by the Energy Commission to conduct proceedings on the Application for Certification for the **ORANGE GROVE POWER PLANT PROJECT** has scheduled a Prehearing Conference and an Evidentiary Hearing as follows:

The Prehearing Conference will be conducted on:

**MONDAY, December 1, 2008**  
 Beginning at 9:00 a.m.

California Energy Commission  
 Hearing Room B  
 1516 Ninth Street  
 Sacramento, CA 95814



**TELECONFERENCE OPTION:** You may participate in the Prehearing Conference by telephone or by computer via our "WebEx" web conferencing system. For details on how to participate, please see the "Participation through WebEx" section at the end of this notice.

The Evidentiary Hearing will be conducted on:

**FRIDAY, December 19 2008**  
 Beginning at 10:00 a.m.

Pala Mesa Resort  
 Sun Room  
 2001 Old Highway 395  
 Fallbrook, California 92028  
 (Map Attached)

**PLEASE TAKE NOTICE** that the Committee has established the following schedule which supersedes all prior schedules:

<b>ITEM</b>	<b>DATE</b>	<b>TIME</b>
Applicant Testimony due	Tuesday, November 18, 2008	3:00 p.m.
Intervenors' Testimony due	Tuesday, November 25, 2008	3:00 p.m.
All Parties' Prehearing Conference Statements due	Tuesday, November 25, 2008	3:00 p.m.
Last date to file Petitions to Intervene	Monday, December 1, 2008	9:00 a.m.
All Parties Rebuttal Evidence due	Monday, December 1, 2008	9:00 a.m.

### **Purpose of Prehearing Conference**

The Prehearing Conference is a public forum where the Committee will assess the parties' readiness for an evidentiary hearing, identify areas of agreement or dispute, and discuss the remaining schedule and procedures necessary to conclude the review of the application for certification. (Cal. Code Regs., tit. 20 §1718.5.)

At the Prehearing Conference, all parties (Staff, Applicant, and Intervenors) shall be prepared to present their respective positions regarding the substantive topic areas that are ready for evidentiary hearing; those that require further analysis, including the nature of and timeframe for, any such analysis; those that have been resolved; and those that are disputed and require adjudication. The parties shall also be prepared to identify proposed witnesses, as well as the time required for direct testimony and/or cross-examination.

Local, state, and federal governmental agencies may participate at the Prehearing Conference and Evidentiary Hearing, as necessary. (Cal. Code Regs., tit. 20 § 1714.5.) Elected officials and members of the public may present public comments at these events and/or submit written comments to the Energy Commission's Docket Unit. Please include "Docket No. 08-AFC-4" on any written comments.

### **Prehearing Conference Statements**

To facilitate the process, each party shall serve and file a **Prehearing Conference Statement**. Each party's Prehearing Conference Statement shall be provided to and received by the other parties and the Commission's Docket Unit, 1516 9th Street, MS-15, Sacramento, California 95814-5512, **no later than 3:00 p.m., Tuesday, November 25, 2008**. The parties shall e-mail their statements to the Hearing Officer as well as to the Docket Unit and the parties as indicated on the Proof-of-Service list.

***FAILURE TO FILE A TIMELY PREHEARING CONFERENCE STATEMENT MAY PRECLUDE A PARTY FROM PARTICIPATING AT THIS HEARING.***

Each statement shall set forth:

1. The topic areas that are complete and ready to proceed to evidentiary hearing;
2. The topic areas that are not complete and not yet ready to proceed to evidentiary hearing, and the reasons therefor;
3. The topic areas that remain disputed and require adjudication, and the precise nature of the dispute for each topic;
4. The identity of each witness sponsored by each party (**note:** witnesses must have professional expertise in the discipline of their testimony); the topic area(s) which each witness will present; a brief summary of the testimony to be offered by each witness; qualifications of each witness; and the time required to present direct testimony by each witness;
5. Topic areas upon which a party desires to cross-examine witnesses, a summary of the scope of each such cross-examination (including voir dire of any witness' qualifications), and the time desired for each such cross-examination;
6. A list identifying exhibits and declarations that each party intends to offer into evidence and the technical topics to which they apply (as explained in the following section on Formats for Presenting Evidence);
7. Proposals for briefing deadlines, impact of vacation schedules, and other scheduling matters; and
8. For all topics, any proposed modifications to the proposed Conditions of Certification listed in the Final Staff Analysis (FSA) based upon enforceability, ease of comprehension, and consistency with the evidence.

**Formats for Presenting Evidence**

At the Evidentiary Hearing each party shall be prepared to present evidence on each of the topic areas addressed in the FSA, in the sequence established in the FSA. At the Prehearing Conference, the parties shall provide copies of all documentary and written testimonial evidence in the following two formats to all parties, the Committee and the Hearing Adviser.

1. Each document shall be numbered and identified on an **Exhibit List**:
  - Applicant's documents shall be numbered consecutively as Exhibits 1-199.
  - Staff's documents shall be numbered consecutively as Exhibits 200 - 299.

- Intervenor Anthony Arand's documents shall be numbered consecutively as 300 - 399.
  - Intervenor Alliance for a Cleaner Tomorrow's documents shall be numbered consecutively as 400 - 499.
  - Intervenor Archie D. McPhee's documents shall be numbered consecutively as 500 - 599.
2. Copies of the Exhibits for each topic area shall **also** be compiled in separate file folders identified by topic area with the appropriate Exhibit Number marked on each document, and the file folders placed in sequence corresponding to the sequence of topics in the FSA.

### **Petitions to Intervene to Become a Formal Party**

The Energy Commission's Presiding Member's Proposed Decision on the **Orange Grove Power Plant Project** will be based solely upon the official evidentiary record developed at the Evidentiary Hearing. Only formal parties (Applicant, Staff, or Intervenor) may present evidence and cross-examine witnesses at the Evidentiary Hearing.

Anyone with an appropriate interest in the **Orange Grove Power Plant Project** may file a Petition to Intervene and become a formal party. At the Evidentiary Hearing, the formal parties may offer testimony and documentary evidence, receive documents filed by other parties, and cross-examine witnesses. However, a formal party must also comply with all Committee orders, procedures, and filing requirements, and is subject to discovery and having its own witnesses cross-examined by other parties.

**The deadline to file a Petition to Intervene in this case is 9:00 a.m., Monday, December 1, 2008.** (Cal. Code Regs., tit. 20 § 1207.) Time extensions will not be granted for new Intervenor to review case materials since this proceeding has been ongoing since June 19, 2008.

### **How to Intervene**

The Energy Commission Public Adviser's office will assist any person or organization interested in preparing a Petition to Intervene. For assistance in this process, contact the Public Adviser's office at 916-654-4489 or 800-822-6228 or e-mail at: **[publicadviser@energy.state.ca.us]**.

**PARTICIPATION THROUGH WEBEX  
THE ENERGY COMMISSION'S ON-LINE MEETING SERVICE**

**1. COMPUTER LOGON WITH A DIRECT PHONE NUMBER:**

\* Please go to <https://energy.webex.com> and enter the meeting number:

**922 413 827**

\* When prompted, enter your information and the following meeting password:

**orangegrove@9am**

\* After you login, a prompt will appear on-screen for you to provide your phone number. In the Number box, type your area code and phone number and click OK to receive a call back on your phone for the audio of the meeting. International callers can use the "Country/Region" button to help make their connection.

**2. COMPUTER LOGON FOR CALLERS WITH AN EXTENSION PHONE NUMBER, ETC:**

\* Please go to <https://energy.webex.com> and enter the *unique* meeting number:

**922 413 827**

\* When prompted, enter your information and the following meeting password:

**orangegrove@9am**

\* After you login, a prompt will ask for your phone number. Click "**CANCEL.**"

\* Instead call 1-866-469-3239 (toll-free in the U.S. and Canada). When prompted, enter the meeting number above and your unique Attendee ID number which is listed in the top left area of your screen after you login.

**3. TELEPHONE ONLY (NO COMPUTER ACCESS):**

\* Call **1-866-469-3239** (toll-free in the U.S. and Canada) and when prompted enter the meeting number:

**922 413 827**

If you have difficulty joining the meeting, please call the WebEx Technical Support number at 1-866-229-3239. To see if your computer is compatible, visit [\[http://support.webex.com/support/system-requirements.html\]](http://support.webex.com/support/system-requirements.html). Please be aware that the meeting's WebEx audio and on-screen activity may be recorded.

## Public Adviser and Public Participation

The Energy Commission's Public Adviser, Elena Miller, is available to assist the public in participating in the application review process. For those individuals who require general information on how to participate, please contact the Public Adviser's Office at 916-654-4489 or 800-822-6228 or e-mail at: [\[publicadviser@energy.state.ca.us\]](mailto:publicadviser@energy.state.ca.us).

If you have a disability and need assistance to participate in this event, contact Lourdes Quiroz well in advance of the hearing at 916-654-5146 or e-mail: [\[lquiroz@energy.state.ca.us\]](mailto:lquiroz@energy.state.ca.us).

## Information

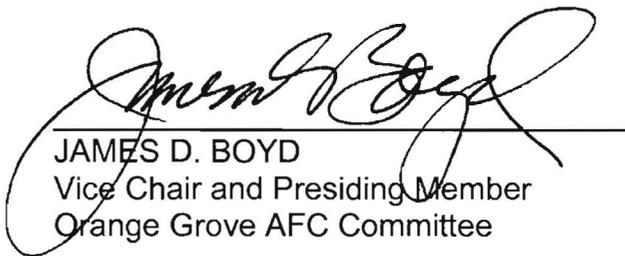
Questions of a legal or procedural nature should be directed to Kenneth Celli, the Hearing Officer, at (916) 651-8893 or e-mail: [\[kcelli@energy.state.ca.us\]](mailto:kcelli@energy.state.ca.us).

Technical questions concerning the project should be addressed to Felicia Miller, Staff Project Manager, at (916) 654-4489, or e-mail: [\[fmiller@energy.state.ca.us\]](mailto:fmiller@energy.state.ca.us).

Media inquiries should be directed to the Office of Media and Public Communications at (916) 654-4989 or e-mail: [\[mediaoffice@energy.state.ca.us\]](mailto:mediaoffice@energy.state.ca.us).

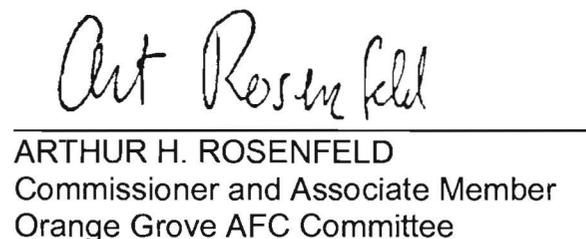
Information concerning the status of the project, as well as notices and other relevant documents, may be viewed on the Energy Commission's Internet web page at: [\[www.energy.ca.gov/sitingcases/orangegrove\]](http://www.energy.ca.gov/sitingcases/orangegrove).

Dated November 6, 2008, at Sacramento, California



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JAMES D. BOYD  
Vice Chair and Presiding Member  
Orange Grove AFC Committee

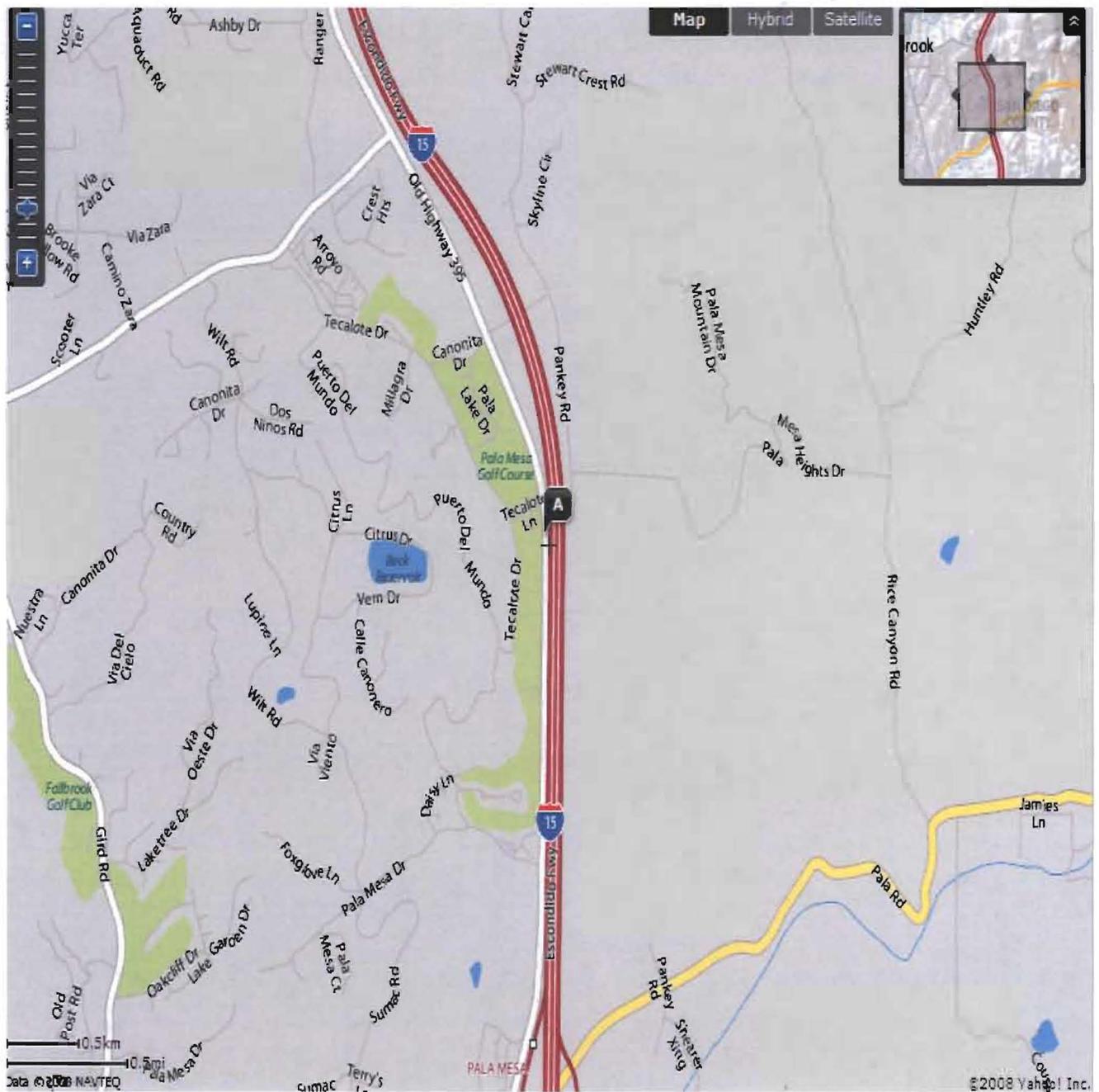


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ARTHUR H. ROSENFELD  
Commissioner and Associate Member  
Orange Grove AFC Committee

Mailed to Lists: POS, 7245, 7246, 7247, 7248

# MAP TO PALA MESA RESORT



## Location: Pala Mesa Resort

HEARING TO BE HELD IN THE "SUN ROOM"  
2001 Old Highway 395, Fallbrook, CA 92028



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  
ORANGE GROVE POWER  
PLANT PROJECT**

**DOCKET No. 08-AFC -4  
PROOF OF SERVICE**  
Revised 10/27/08

**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  
Attn: Docket No. 08-AFC-4  
1516 Ninth Street, MS-15  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

**APPLICANT**

Stephen Thome  
J-Power USA Development  
1900 East Golf Road, Suite 1030  
Schaumburg, IL 60173  
[sthome@jpowerusa.com](mailto:sthome@jpowerusa.com)

Mike Dubois  
J-Power USA Development  
1900 East Golf Road, Suite 1030  
Schaumburg, IL 60173  
[mdubois@jpowerusa.com](mailto:mdubois@jpowerusa.com)

**APPLICANT CONSULTANT**

Joe Stenger, PG. REA  
TRC  
2666 Rodman Drive  
Los Osos CA 93402  
[jstenger@trcsolutions.com](mailto:jstenger@trcsolutions.com)

**COUNSEL FOR APPLICANT**

\*Jane Luckhardt  
Downey Brand, LLP  
621 Capitol Mall, 18<sup>th</sup> Floor  
Sacramento, CA 95814  
[jluckhardt@downeybrand.com](mailto:jluckhardt@downeybrand.com)

Wayne Song  
Morgan, Lewis & Bockius LLP  
300 S Grand Avenue, 22<sup>nd</sup> Floor  
Los Angeles, CA 90071  
[wsong@morganlewis.com](mailto:wsong@morganlewis.com)

**INTERESTED AGENCIES**

California ISO  
P.O. Box 639014  
Folsom, CA 95763-9014  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)

Steve Taylor  
San Diego Gas & Electric  
8306 Century Park Court  
San Diego, CA 92123  
[srtaylor@semprautilities.com](mailto:srtaylor@semprautilities.com)

### **INTERVENORS**

Anthony J. Arand  
219 Rancho Bonito  
Fallbrook, CA 92028  
[tony@envirepel.com](mailto:tony@envirepel.com)

Alliance for a Cleaner Tomorrow (ACT)  
c/o Arthur S. Moreau, Klinedinst, PC  
501 West Broadway, Suite 600  
San Diego, CA 92101  
[amoreau@klinedinstlaw.com](mailto:amoreau@klinedinstlaw.com)

Archie D. McPhee  
40482 Gavilan Mountain Road  
Fallbrook, CA 92028  
[archied1@earthlink.net](mailto:archied1@earthlink.net)

### **ENERGY COMMISSION**

JAMES D. BOYD  
Commissioner and Presiding Member  
[jboyd@energy.state.ca.us](mailto:jboyd@energy.state.ca.us)

ARTHUR ROSENFELD  
Commissioner and Associate Member  
[pflint@energy.state.ca.us](mailto:pflint@energy.state.ca.us)

Kenneth Celli  
Hearing Officer  
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Felicia Miller  
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Jared Babula  
Staff Counsel  
[jbabula@energy.state.ca.us](mailto:jbabula@energy.state.ca.us)

Public Adviser's Office  
[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)

### **DECLARATION OF SERVICE**

I, RoseMary Avalos, declare that on November 6, 2008, I deposited copies of the attached Notice of Prehearing Conference and Notice of Evidentiary Hearing in the United States mail at Sacramento, CA 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 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.

  
RoseMary Avalos

Attachments