

Archie D. McPhee
40482 Gavilan Mountain Road
Fallbrook, CA 92028
November 16, 2008

Felicia Miller, Project Manager
Docket Number, 08-AFC-4
California Energy Commission
1516 Ninth Street
Sacramento CA 95814-5512

DOCKET	
08-AFC-4	
DATE	NOV 16 2008
RECD.	NOV 24 2008

Dear Ms Miller,

There is something very wrong with the California Energy Commission's permission to allow the Orange Grove Energy Power Plant (OGP) to rename the "Reclaimed Water" to be used by their power plant as "Recycled Water". This, thereby permits the OGP to avoid all of the use requirements specified by California law when transporting and using Reclaimed Water. Please read my statements below concerning this issue.

I possess a Bachelors and Masters Degree in Chemical Engineering. I was also a PhD Candidate in Chemical Engineering at the University of Maryland. I completed all of the required course work and started my PhD Thesis when money became a serious problem. I am a California Registered Professional Civil Engineer and also possess a California Community College Teaching Certificate in Mathematics and Engineering. I have worked: in Refineries and Chemical plants as an operator, Chemical Engineer and Chief Engineer; in water resource management; in San Diego City's water/sewer departments; and in home construction as an owner builder. I possess years of hands on, practical and varied engineering experience.

Recycled Water: is defined as potable water used again, or repeatedly, at the expense of freshness. Recycled water is used in Refineries, Chemical Plants, and others. Refineries and Chemical Plants purchase potable water from their regional water districts. It is pumped into a holding tank, then pumped/recycled through heat exchanger's, thereby, picking up heat, then it is pumped/recycled to a cooling tower and back to the holding tank to repeat the recycling process. A level of water is maintained in the holding tank by adding fresh potable water. When solids build up in the recycled water, flushing and replenishment is required to reduce high solids concentrations. There are no California government restrictions/laws on the use of "Recycled Water" (but there is on "Reclaimed Water") and for that reason OGP is renaming the "Reclaimed Water" it plans to use in its power plant as "Recycled Water".

Reclaimed Water: is defined as the extraction of water from sewage for reuse. In reality Reclaimed Water is toilet or domestic/commercial sink water which has been flushed into sewer mains. It is then subjected to Primary, then Secondary, and finally

Tertiary sewage treatment processes. It stinks from dissolved gases; it is not disinfected; it is contaminated with: waterborne diseases, harmful bacteria, and commercial and hospital waste containing blood and chemicals. There are strict California laws on the use and transportation of Reclaimed Water which OGP can eliminate by renaming "Reclaimed Water" to a new title "Recycled Water", which it is not. Reclaimed Water must, by California law, be labeled "Contaminated: Do Not Drink" and must also be transported in purple piping and has restricted use and safety regulations. Recycled Water does have these same California sanitary and safety regulations/laws. For Example, there is no law prohibiting the use, or promotion, of Recycled Water as/for drinking water. Any tertiary treated sewage water discharged from any California sewage treatment plant for irrigation use must be designated as Reclaimed Water, subject to many sanitary and safety use regulations by California law. Reclaimed Water cannot, by law, be renamed Recycled Water and used for domestic purposes. Can Reclaimed Water, subject to the California and San Diego County's lawful restrictions, be transported by watertruck, from one location for use at another location as Orange Grove Energy has contracted with FPUD to do?

By renaming "Reclaimed Water" with the title "Recycled Water" Orange Grove Energy may be attempting to by-pass California's laws concerning Reclaimed Water use. OGP can then claim, with the California Energy Commissions help, there are no laws, or restrictions on the use of "Reclaimed Water" after it is renamed "Recycled Water". By allowing this scam to occur, California's Energy Commission would permit the unlawful use of Reclaimed Water for domestic use in the OGP and seriously endanger the health of employees who might accidentally ingest this Reclaimed Water. Reclaimed Water's permitted use is irrigation.

The California Energy Commission's (O8-AFC-4) Staff Report, states (Pages 4.9-9&10): " The OGP proposes to use both potable water and **recycled water** for plant industrial use". "The RMWD.... does not offer **recycled water**..." ; Water for evaporative cooling of the inlet Air chiller would come from tertiary treated **recycled water** and would be stored onsite in a 414,000 gallon **recycled water** storage tank". On pages 4.9-9&10, the California Energy Commission has changed the name "Reclaimed Water" to the name "Recycled Water" on 4 different occasions, which it is not. It is tertiary treated sewage water properly named Reclaimed Water. Recycled Water is not tertiary treated sewage water

However , on Page 4.9-6, Paragraph 3, the California Energy Commission states: "...the facility would include a 414,000 gallon **reclaimed water** storage tank. On Page 4.9-7, Paragraph 2, "The OGP proposes to use both water and tertiary-treated **reclaimed water** for plant process needs" " The **reclaimed water** pick-up station would be located on a 0.4 acre parcel..." On Page 4.9-12, "Table 4, (lists) Proposed OGP Operation **Reclaimed Water** Use" and on 4.9-11, "Table 3, (lists) Proposed OGP Operation Potable Water Use". Are the name changes, in the paragraph above, from Reclaimed Water to Recycled Water on purpose?

In the Potable Water Option Agreement signed by Keith Lewinger of FPUD and Stephen Thome of Orange Grove Energy (which has been redacted and is undated) there are definitions of terms used in this Potable water Agreement . Recital statement "D" defines FPUD's Reclaimed Water as "tertiary treated **recycled water**" which it is not. This misuse of definitions is, in my opinion, unlawful. In reality it is contaminated effluent water from sewage treatment plants and is called by the State of California **Reclaimed Water** and which title has lawful restrictions on its use for which the title Recycled Water does not have. Nothing in the Potable Water Option Agreement (Covenant item 5) stipulates that "tertiary treated recycled water" (FPUD's term) can be substituted for California Energy Commission's potable water specified use inside the boundaries of the OGP. See Potable Water Option Agreement (Covenants Item 5). Is there a reason for this? Is it a play on words? Does it invalidate the Potable Water Option Agreement?

On page 4.9-30, the Rainbow Municipal Water District (RMWD) states that "if the water trucking is to be considered a permanent arrangement plan then RMWD is opposed to the water agreements because RMWD considers them contrary to the to the RMWD rules and regulations and counter to the rights of the residents in the District to have a voice in the decision-making process". The OGP is located inside the RMWD's service boundaries. The signed and undated FPUD's contract with OGP called the "Potable Water Option Agreement" is for 25 years and 2 months and any attempt in the "Response Section" to reach an agreement with RMWD, as stated, is a fairy tale.

Reasons for Orange Grove Energy to call Reclaimed Water Recycled Water

- 1) There are no California legal restrictions on the use of Recycled Water but there are California legal restrictions on the use of Reclaimed Water. The title Reclaimed Water has been changed to the title Recycled Water in part of the design specifications for OGP. which changed title, in my opinion is unlawful because Recycled Water has no California legal restrictions on its use, but Reclaimed Water does.
- 2) Knowingly identifying an entity (Reclaimed Water) by another name (Recycled Water) which does not have the same legal restrictions as that of the real entity (Reclaimed Water) is, in my opinion, unlawful.
- 3) There are California legal restrictions on Reclaimed Water. These will be eliminated by renaming this water Recycled Water.
- 4) The term Recycled Water implies that it does not contain, as does Reclaimed Water, waterborne diseases, industrial/hospital waste/chemicals, and bacteria that are harmful to human beings, animals or vegetation.
- 5) Can Reclaimed Water, by California/San Diego County law, be transported from one location to another location by tanker truck? Possibly not.
- 6) Allowing OGP to rename "Reclaimed Water" to the new title, "Recycled Water", will permit all those sleazy contractors and developers in California, who do not wish to follow California's stringent lawful requirements for Reclaimed Water, to bypass these requirements in the same manner as the OGP appears to be now attempting.

7) By substituting the name "Recycled Water" for "Reclaimed Water" could result in serious sickness or death to power plant workers, and to others.

8) Has there been any studies on the AIDS virus, or other serious virus', which may be transported in Reclaimed Water (renamed by OGP and FPUD to the title Recycled Water)? If so when and by who? Some of this Reclaimed Water originates from Hospital Waste including human blood.

9) Has pilot plant studies been performed to verify that the suggested use by FPUD of Reclaimed Water, in place of potable water, is possible without harming the OGP turbine blades. If so, for how long was the study, and the results were?

On Page 4.9-29, Comment #5, B, if water courses are to be altered a Stream Bed Alteration Agreement from the California Dept of Fish and Game is required.



Archie McPhee
CC California Attorney General
San Diego County District Attorney





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

APPLICANT

Stephen Thome
J-Power USA Development
1900 East Golf Road, Suite 1030
Schaumburg, IL 60173
sthome@jpowerusa.com

Mike Dubois
J-Power USA Development
1900 East Golf Road, Suite 1030
Schaumburg, IL 60173
mdubois@jpowerusa.com

APPLICANT CONSULTANT

Joe Stenger, PG. REA
TRC
2666 Rodman Drive
Los Osos CA 93402
jstenger@trcsolutions.com

COUNSEL FOR APPLICANT

*Jane Luckhardt
Downey Brand, LLP
621 Capitol Mall, 18th Floor
Sacramento, CA 95814
jluckhardt@downeybrand.com

Wayne Song
Morgan, Lewis & Bockius LLP
300 S Grand Avenue, 22nd Floor
Los Angeles, CA 90071
wsong@morganlewis.com

INTERESTED AGENCIES

California ISO
P.O. Box 639014
Folsom, CA 95763-9014
e-recipient@caiso.com

Steve Taylor
San Diego Gas & Electric
8306 Century Park Court
San Diego, CA 92123
srtaylor@semprautilities.com

INTERVENORS

Anthony J. Arand
219 Rancho Bonito
Fallbrook, CA 92028
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

Archie D. McPhee
40482 Gavilan Mountain Road
Fallbrook, CA 92028
archied1@earthlink.net

ENERGY COMMISSION

JAMES D. BOYD
Commissioner and Presiding Member
jboyd@energy.state.ca.us

ARTHUR ROSENFELD
Commissioner and Associate Member
pflint@energy.state.ca.us

Kenneth Celli
Hearing Officer
kcelli@energy.state.ca.us

Felicia Miller
Project Manager
fmiller@energy.state.ca.us

Jared Babula
Staff Counsel
jbabula@energy.state.ca.us

Public Adviser's Office
publicadviser@energy.state.ca.us

DECLARATION OF SERVICE

I, April Albright declare that on November 24, 2008 I deposited copies of the attached
A. McPhee Letter Regarding Recycled Water 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.

April Albright

Attachments