

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

**APPLICATION FOR
CERTIFICATION FOR THE
ORANGE GROVE POWER PLANT
PROJECT BY ORANGE GROVE
ENERGY, LP**

DOCKET NO. 08-AFC-4
(AFC filed 06/20/08)

ORANGE GROVE ENERGY, L.P.'S STATUS REPORT

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September 15, 2008

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Orange Grove Energy, L.P. ("Orange Grove") is pleased to provide the following status report to the Committee. Orange Grove is working with California Energy Commission Staff ("Staff") to provide the information needed by Staff to complete its Final Staff Assessment. On September 11, Staff held a productive data response and issues resolution workshop. Staff requested some additional information at the workshop and Orange Grove will respond to Staff's requests in the next two to three weeks, if not sooner.

Orange Grove expects to fulfill, by the end of next week, Staff's request for environmental impact data related to reconductoring the San Diego Gas and Electric ("SDG&E") Transmission line (Data Requests 66 and 67). Orange Grove has nearly completed a draft impact assessment for the reconductoring, and will submit the completed draft to SDG&E this week for their concurrence with the work scope and impacts. Orange Grove expects SDG&E to complete its review of the environmental assessment by the end of next week and anticipates submitting the assessment to CEC promptly upon incorporating SDG&E comments, if any.

Orange Grove is concerned that Staff may continue to request Orange Grove to conduct unnecessary, redundant work related to assessing the potential for buried archaeological resources ("Data Request 46") along the proposed pipeline's route. At the September 11 workshop, Staff requested Orange Grove to prepare a geoarchaeological field survey in accordance with Staff's *recommendation* from Data Request 46. This field survey involves excavating three trenches within the Holocene alluvium geologic/geomorphic unit, from which Staff hopes to be able to further assess the potential for buried archaeological resources to occur within this portion of the proposed natural gas pipeline's route.

A geoarchaeological field survey is, however, unnecessary to Staff's analysis because such survey is unlikely to produce any new relevant information compared to what Orange Grove already provided Staff. The age and character of the subject materials are well understood. The Holocene alluvium was deposited along a river wash in which the active channel has meandered over time, periodically depositing and reworking the sediments as they are transported over geologic time from the uplands to the ocean, resulting in a 3-dimensional system of lense-shaped deposits in generally random placement. The test pits proposed by Staff would be expected to confirm this, since geologic processes in alluvial stream channels are well understood, but the test pits are unlikely to yield any information relevant to cultural resources. No cultural resource discoveries have occurred in the Holocene alluvium in this area, so an encounter in the test pits, in the unlikely event it were to occur, would be random luck. Short of an actual cultural resource finding, the information that would be yielded from the staff-suggested studies would be purely geological with no relevance to cultural resources. Further, in the unlikely event a random cultural resource discovery were to occur during the proposed trenching, such a finding would have no correlation to the likelihood of resources occurring at other locations on the pipeline route, due to the random nature of individual lenses within the deposit. In other words, although it is very unlikely for Orange Grove to discover any archaeological resources along the pipeline route, if resources were discovered in one of the three trenches, that discovery would not indicate the present of resources at other locations on the route. Orange Grove has already provided Staff geological information in Orange Grove's application for certification ("AFC") and from cores subsequently drilled in the Holocene alluvium along the pipeline's route, and given the extremely low chance of finding any archaeological resources while excavating three trenches, conducting such a survey will most likely only produce more geologic information similar to that which Staff already has from the core logs and other geologic information in the AFC.

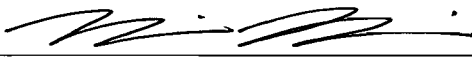
Additionally, the field survey recommended by Staff would result in significant delays to the current project timeline. The portion of the pipeline occurring within the Holocene alluvium is on property owned by either Gregory Canyon or the California Department of Transportation ("CalTrans"). Based on previous experience, Gregory Canyon will require Orange Grove to acquire approval from the United States Fish and Wildlife Service ("USFWS") prior to conducting the field survey. Coordinating with USFWS would be expected to take several

weeks or more following the preparation and submittal of a workplan before the survey can be completed.

Coordinating with Caltrans to conduct the trenching would be expected to take several months before Orange Grove can conduct a field survey, and Caltrans would need to issue an encroachment permit. After receiving an encroachment application, Caltrans would need to deem the application is complete and then would have 60 days to issue the encroachment permit. Because preparing the application could take upwards of 30 days, acquiring Caltrans approval to conduct a field survey would be expected to take on the order of four months or more. Caltrans may not allow the work to occur without an assessment of potential environmental impacts in accordance with CEQA (e.g., a mitigated negative declaration). Despite the lack of new relevant information a field survey would produce and the lengthy delays such a field survey would cause, Orange Grove is concerned that Staff may continue to request Orange Grove to conduct unnecessary work related Data Request 46.

DATED: September 15, 2008

DOWNEY BRAND LLP

By: 
Nicolaas Pullin

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**PROOF OF SERVICE
(Revised 8/25/08)**

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
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DECLARATION OF SERVICE

I, Lois Navarrot, declare that on September 15, 2008, I deposited a copy of the attached Orange Grove's Energy, L.P.'s Status Report Dated September 15, 2008 in the United States mail at Sacramento, California 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 the 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.



Lois Navarrot