

Archie D. McPhee
40482 Gavilan Mountain Road
Fallbrook, CA 92028
March 30, 2009

DOCKET 08-AFC-4
DATE <u>MAR 30 2009</u>
RECD: <u>APR 06 2009</u>

Energy Resources Conservation and
Development of the State of California
1516 Ninth Street
Sacramento, CA 95814

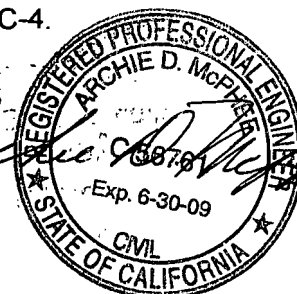
Attention: Ken Celli

Dear Commissioners,

Attached please find a copy of the "Potable Water Option Agreement - COVENANTS, Item 5" between Orange Grove Power (OGP) 08-AFC-4 and the Fallbrook Public Utility District (FPUD). This agreement states that "**tertiary treated recycled water**" will be supplied in place of potable water in the event of a drought. There is no item called "**tertiary treated recycled water**" anywhere in Title 22, June 2001 Edition of the California Health Laws Related to Recycled Water (CHLRRW) and please note the absence of the word "DISINFECTED" in this Item 5 definition in the "Potable Water Option Agreement". This is a violation of California Health Laws which requires the wording "tertiary treated recycled water" to be replaced with the exact words "Disinfected tertiary recycled water per California Health Laws Related to Recycled Water, Title 22, 2001 Edition". I have also included Section 6.5 of the California Energy Commission's (CEC) WATER RESOURCES approved design criteria for the OGP Application for Certification. Please note the reference to the fact that FPUD will only supply "**tertiary treated reclaim water**" and if it is being discharged into the Pacific Ocean it is not disinfected. Furthermore, **tertiary treated reclaim water** is not "Disinfected tertiary recycle water". For potable water and/or reclaimed water to be disinfected it must, **by law**, contain a residual of chlorine or un-reacted hypochlorite which is not shown in FPUD's reclaimed water quality chemistry profile referenced in Section 6.5.1.4.1 of this Water Resources attachment.

Mr. Celli, Please distribute this communication and the attachments to the commissioners. This is more evidence that FPUD must provide specifically "Disinfected tertiary recycled water" to the Orange Grove Energy Power Plant so no one can play around with the constant misuse of the CEC terms. All I am demanding is that FPUD and OGP obey the law as specifically stated i.e. specify the required "Disinfected tertiary recycled water" instead of the misused terms throughout the California Energy Commissions Documents which will eventually lead to legal misunderstandings. I demand that everyone obey the law as specified by Title 22 of the CHLRRW, June 2001 Edition, instead of allowing misleading wording and terminology as presented throughout the California Energy Commissions documents on 08-AFC-4.


Archie McPhee



POTABLE WATER OPTION AGREEMENT
" COVENANTS "

5. Drought, Water supply shortage, water emergency and Incremental Recycled Water Reservation. In the event a drought, a water supply shortage or a water emergency [as determined by the District in its reasonable discretion] limits the District's ability to deliver potable water, the District may prohibit access to the potable water Point of Delivery. At any time that the District prohibits annexations to the District due to water supply concerns, the District will prohibit access to the potable water Point of Delivery. The District shall notify Orange Grove of any restrictions at least 24 hours in advance of their taking effect. For every day or partial day that the District restricts potable water access, Orange Grove shall receive an incremental increase in the reservation of tertiary treated recycled water under its Recycled Water Supply Agreement. The incremental increase in the reservation of tertiary treated recycled water shall be 62 acre-ft less the amount of potable water that has already been delivered in a calendar year.
6. Remedies for Breach. In the event of a breach of any term or provision of this Agreement by either party, both parties shall have all rights and remedies granted by California law. Nothing contained in this Agreement shall be construed as limiting any of the rights and remedies of either parties upon any breach of a term or provision of this Agreement.
7. Installation of Improvements, Priority of Use. As a material term of this Agreement, Orange Grove shall pay for all new capital facilities that will be necessary to fill Orange Grove's trucks at the Delivery Site. These improvements include at a minimum, but are not limited to approximately 200' feet of 14' wide asphalt road way, water handling facilities including 6-inch meter necessary to fill the trucks, concrete loading pad, and other ancillary appurtenances as may be required by the District in its sole discretion (collectively, the "New Facilities"). It is anticipated that the 14' wide road would provide sufficient width for trucks transporting the potable water for Orange Grove. These improvements are currently estimated to cost _____ dollars (\$ _____), however in no case are the costs for the improvements limited to this amount. The District shall be responsible for constructing the New Facilities. The District shall construct the New Facilities within four (4) months after the date of this Agreement. All improvements determined necessary by the District must be completed prior to commencing deliveries, and no hauling will be allowed until all necessary regulatory permits (if any) are acquired by Orange Grove. Orange Grove shall deposit the engineer's estimate of the aforementioned facilities within 90 days in advance of construction of the facilities. Such deposits shall solely be used for the costs of constructing the New Facilities. Upon completion of construction of the New Facilities, any amounts remaining will be returned to Orange Grove within thirty (30) days after the completion of construction and payment of all invoices relating to construction. If construction costs exceed the amount deposited by Orange Grove, Orange Grove shall pay such additional costs after being notified by the District of any such additional costs. Orange Grove shall have exclusive use of the water filling station and meter and

6.5.1.4.1 Reclaim Water

As described in Section 2.6.2.1, the Applicant has secured a source of recycled water for power plant cooling through an option agreement with the FPUD. Under the option agreement, the Applicant has rights to up to 45 acre-feet per year (AFY) of tertiary-treated reclaim water for 25 years, to accommodate the 25-year operation of the Project. The Project will obtain water from FPUD in an annual amount that meets or exceeds the Project's water demand for the air inlet chiller cooling system. The optioned water quantity is more than adequate to supply these needs considering the maximum permitted hours of plant operation for any given year. The water will be picked up from the FPUD Wastewater Treatment Plant No. 1 located in Fallbrook and trucked to the Site (see Section 2.6.2.1).

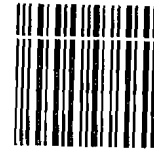
Use of the reclaimed water from FPUD will have no adverse impact on water resources and no impact on other water users. The reclaimed water that will be provided to the Project is currently being discharged to the Pacific Ocean via a pipeline connecting the FPUD water reclamation plant and other regional water treatment plants with a submarine outfall located offshore of Oceanside. The reclaimed water quality chemistry profile for 2006 and 2007 is provided in Table 6.5-1.

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



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Energy Resources Conservation and
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1516 Ninth Street
Sacramento, CA 95814
Attention: KenCelli

95814+5512

