



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

DOCKET
08-AFC-4

DATE FEB 25 2009
RECD. FEB 25 2009

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

DOCKET No. 08-AFC-4

**NOTICE OF AVAILABILITY OF THE PRESIDING MEMBER'S PROPOSED DECISION AND
NOTICE OF EVIDENTIARY HEARING AND NOTICE OF COMMITTEE CONFERENCE**

I. NOTICE OF AVAILABILITY

On February 25, 2009, the Committee issued the Presiding Member's Proposed Decision (PMPD) for the **ORANGE GROVE POWER PLANT PROJECT**. Copies of the PMPD have been sent to the Proof of Service list. For a printed copy, call the Publications Unit at (916) 654-5200, and ask for Publication No. CEC 800-2009-003-PMPD. The PMPD may also be viewed on the Commission's internet web page for this project at: [www.energy.ca.gov/sitingcases/orangegrove]. The public comment period on the PMPD ends on **March 25, 2009**.

II. NOTICE OF SUPPLEMENTAL EVIDENTIARY HEARING

PLEASE TAKE NOTICE that the Committee has scheduled a Supplemental Evidentiary Hearing to reopen the record and to receive evidence as follows:

**MONDAY, March 16, 2009
Beginning at 10:30 a.m.**

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

As indicated in the PMPD, we will reopen the record at the Supplemental Evidentiary Hearing for the limited purpose of taking evidence on the issues specified below:

ALTERNATIVES: There is a discrepancy in the water usage figures between the **Soil and Water Resources** and **Project Alternatives** sections. (Ex. 200, p. 6-9.) The Applicant and Staff are directed to resolve this issue at the PMPD Conference.

LAND USE: The Subdivision Map Act at Government Code section 66424 defines “subdivision” to include any division of land for sale or lease. The evidence indicates that the project site is owned by San Diego Gas and Electric Company and will be available to Orange Grove Energy through a tolling agreement. Yet, the record also indicates that the subject site will be “leased” by Orange Grove Energy L.P. (Exs. 1, p. 1-1; 200, p. 3-1.) The record is silent as to whether this lease creates a subdivision and, if so, whether the subdivision would violate the minimum lot size for the zone. The Committee directs the parties to address this matter at the PMPD Conference.

PROJECT DESCRIPTION: The record also indicates that the subject site will be “leased” by Orange Grove Energy L.P. (See **LAND USE** above.) Is the basis for the use of the real property a tolling agreement, a leasehold, or both? The Committee directs the parties to address this matter at the PMPD Conference.

TRAFFIC AND TRANSPORTATION: The parties are directed to provide testimony at the PMPD Conference regarding the duration of pipeline construction, the hours of construction, where or when the flagmen will be needed and the basis for the conclusion that there will be no significant impact on traffic flow.

Procedure

During the Supplemental Evidentiary Hearing, all parties (Applicant, Staff, and Intervenors, if applicable) shall present evidence consisting of declarations or sworn testimony in person, and exhibits for each topic area. The parties must identify their witnesses and submit their prepared written testimony in the form of sworn declarations by the date indicated below. All witnesses who appear in person shall testify under oath or affirmation and are subject to cross-examination by other parties.

The parties shall file and serve copies of their prepared written testimony and proposed exhibits **no later than 3 p.m. on March 9, 2009**. The parties shall also send electronic copies of their written testimony and exhibits to the Proof of Service list via e-mail and additional copies to the Hearing Officer in MS Word format.

The rules of evidence pertaining to this evidentiary hearing may be found at Sections 1212-1213 of the Commission’s regulations. [Cal. Code Regs., tit. 20, §§ 1212, 1213; see also § 1702 (h).] The regulations can be viewed on the Commission’s Internet website at: [<http://www.energy.ca.gov/siting/title20/tofc.html>].

The Committee will provide time for members of the public to comment on the issues discussed at the Supplemental Evidentiary Hearing.

III. NOTICE OF COMMITTEE CONFERENCE

PLEASE TAKE NOTICE that immediately after we close the Supplemental Evidentiary Hearing, the Committee will convene a Committee Conference on the PMPD at the same location as follows:

MONDAY, March 16, 2009
Following the Supplemental Evidentiary Hearing

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

Comments on the PMPD

The purpose of the Committee Conference is to consider oral and written comments on the PMPD from the parties, governmental agencies, and members of the public. The parties shall file and serve their initial written comments on the PMPD **no later than 3 p.m. on March 9, 2009**. The parties shall also send electronic copies of their comments to the Proof of Service list via e-mail and additional copies to the Hearing Officer in MS Word format. Comments may include clarifications based on the evidentiary record and legal argument.

Public Comments

Members of the public and governmental agency representatives are encouraged to submit their written comments by **March 9, 2009**, either by mailing to the Commission Docket Unit (1516 Ninth Street, MS-15, Sacramento, CA 95814) or by e-mail: **docket@energy.state.ca.us**. Identify all comments with "**Docket No. 08-AFC-4.**" We will accept additional written comments from the parties, the public, and governmental agencies until the close of the comment period on **March 25, 2009**.

At the PMPD conference, members of the public will have an opportunity to present their written and oral comments to the Committee regarding the PMPD. It will not be necessary for participants to repeat comments that they may have offered at the Supplemental Evidentiary Hearing preceding the PMPD Conference.

IV. NOTICE OF COMMISSION HEARING

PLEASE TAKE FURTHER NOTICE that the Energy Commission will conduct a hearing on the PMPD at a regularly scheduled business meeting as follows:

WEDNESDAY, April 8, 2009
Beginning at 10 a.m.

California Energy Commission
First Floor Hearing Room A
1516 Ninth Street
Sacramento, CA 95814

The purpose of this hearing is to consider whether the Energy Commission should adopt, modify, or reject the PMPD. Members of the public may participate and offer oral and written comments on the PMPD. Twelve copies of all written comments must be received no later than noon, **March 25, 2009**, by the Energy Commission's Docket Unit, MS-4, 1516 Ninth Street, Sacramento, CA 95814. Identify all comments with "**Docket No. 08-AFC-4.**" Parties in the case shall submit comments by **March 9, 2009**, as noted above.

Public Participation

For information on how to participate in these hearings, contact Elena Miller, the Energy Commission's Public Adviser, at 916-654-4489 or toll free at 1-800-822-6228, or email: **publicadviser@energy.state.ca.us**.

If you have a disability and need assistance to participate, please contact Lourdes Quiroz at 916-654-5146 or e-mail: **lquiroz@energy.state.ca.us**.

Questions of a legal or procedural nature should be directed to Kenneth Celli, the Hearing Officer, at 916-654-3893 or e-mail: **kcelli@energy.state.ca.us**.

Technical questions concerning the project should be addressed to Felicia Miller, the Staff Project Manager, at 916-654-4640, or e-mail: **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**.

Documents concerning the project proposal can be viewed on the Energy Commission's website at: www.energy.ca.gov/sitingcases/orangegrove.

Dated February 25, 2009, at Sacramento, California.

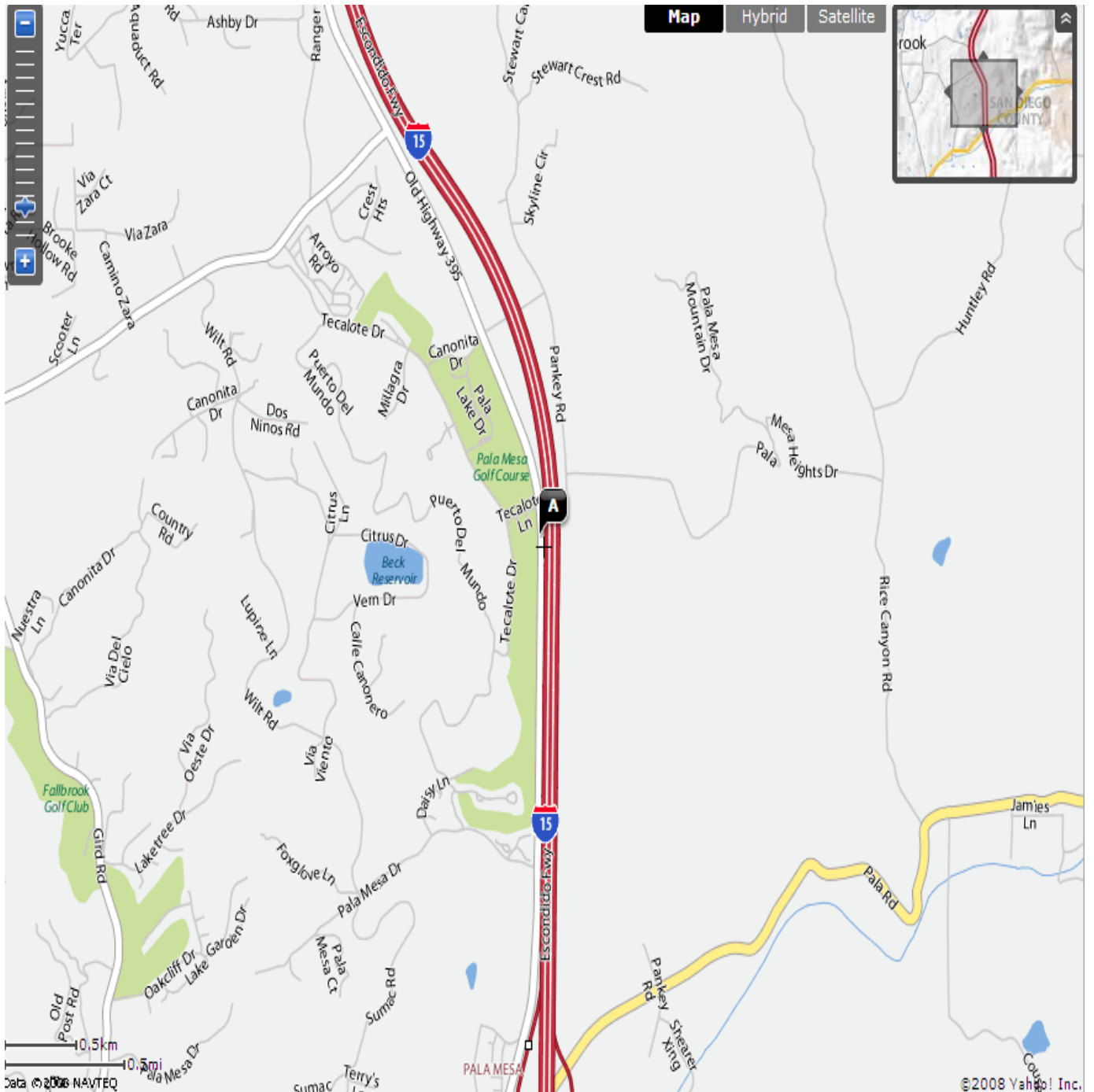
Original Signed By:

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

Original Signed By:

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

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



LOCATION: PALA MESA RESORT
HEARING TO BE HELD IN THE "SUN ROOM"
2001 OLD HIGHWAY 395, FALLBROOK, CA 92028



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**APPLICATION FOR CERTIFICATION
ORANGE GROVE POWER
PLANT PROJECT**

**DOCKET No. 08-AFC -4
PROOF OF SERVICE
(Revised 2/17/09)**

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

DECLARATION OF SERVICE

I, RoseMary Avalos, declare that on February 25, 2009, I served and filed copies of the attached Notice of Availability of the Presiding Member's Proposed Decision and Notice of Evidentiary Hearing and Notice of Committee Conference, dated February 25, 2009. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: **[www.energy.ca.gov/sitingcases/orangegrovepeaker]**. The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

 X sent electronically to all email addresses on the Proof of Service list;

 X by personal delivery or by depositing in the United States mail at Sacramento, California with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

 X sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (***preferred method***);

OR

 depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION

Attn: Docket No. 08-AFC-4
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512

docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.

Original Signed By: _____
RoseMary Avalos