



County of San Diego

ERIC GIBSON
DIRECTOR

DEPARTMENT OF PLANNING AND LAND USE

5201 RUFFIN ROAD, SUITE B, SAN DIEGO, CALIFORNIA 92123-1666
INFORMATION (858) 694-2960
TOLL FREE (800) 411-0017
www.sdcounty.ca.gov/dplu

January 7, 2009

Stephen Thome
Orange Grove Energy, L.P.
Suite 1030
1900 E. Golf Road
Schaumburg, IL 60010

DOCKET 08-AFC-4
DATE <u>JAN 07 2009</u>
RECD. <u>MAR 02 2009</u>

Dear Mr. Thome;

This letter is provided at the request of Orange Grove Energy, L.P., who we understand is undertaking a project located near the intersection of Pala Del Norte Road and Highway 76 in the Pala-Pauma Community Plan area of the unincorporated area of San Diego County (APN 110-072-26). It is hereby confirmed that the 25-year lease of an 8.5-acre portion of land owned by San Diego Gas and Electric Company (SDG&E) to the applicant is exempt from the requirements of the Subdivision Map Act.

The applicant has informed the County of San Diego that SDG&E will lease the site to Orange Grove for a power generation facility, and SDG&E will continue operation of the facility after the end of the lease. As stated by the applicant, Orange Grove will separately finance this project and collaterally assign this lease to its lenders. This letter also confirms that this collateral assignment of the lease by Orange Grove to its lenders and their assignees is exempt from the Subdivision Map Act.

California Government Code Section 66428(a)(2) provides for this exemption, as follows:

"....A parcel map shall not be required for....[]and conveyed to or from a governmental agency, public entity, public utility, or for land conveyed to a

subsidiary of a public utility for conveyance to that public utility for rights-of-way, unless a showing is made in individual cases, upon substantial evidence, that public policy necessitates a parcel map. For purposes of this subdivision, land conveyed to or from a governmental agency shall include a fee interests, a leasehold interest, an easement, or a license."

The County is not aware of any showing having been made in this individual case, that public policy necessitates a parcel map. Further, the applicant has informed the County that the leasing of utility property is subject to the purview of the California Public Utilities Commission and that SDG&E has already received approval for the lease of the site by the Public Utilities Commission. Accordingly, it is understood that the leasing and financing of the SDG&E land for this project is exempt from the Subdivision Map Act under Section 66428(a)(2) and does not require a parcel map.

Please let me know if you have any questions at (858) 694-3789.

Sincerely,



Brian R. Baca
Chief, Regulatory Planning
Department of Planning and Land Use

cc: Ruth Love, San Diego Gas & Electric Company, 8335 Century Park Court, CP11D,
San Diego, CA 92123
Jarrett Ramaiya, Project Manager, Department of Planning and Land Use,
M.S. O-650
File