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

ORANGE GROVE ENERGY LLP'S PREHEARING CONFERENCE STATEMENT

November 25, 2008

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08-AFC-4
DATE Nov 20 2008
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November 25, 2008

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I. INTRODUCTION

Pursuant to the Notice of Prehearing Conference dated November 6, 2008 (the "Notice") and Title 20 of the California Code of Regulations § 1718.5, Orange Grove Energy, L.L.P. ("Orange Grove") hereby files its Prehearing Conference Statement for the Orange Grove Power Plant Project (the "Orange Grove Project"). Pursuant to the Notice, this Prehearing Conference Statement responds to the eight items listed therein.

In addition, on November 20, 2008, the Orange Grove AFC Committee (the "Committee") created nine additional questions for inclusion in the Prehearing Conference Statements of Applicant and Staff. These additional topics are addressed in Section X of this Prehearing Conference Statement.

II. TOPIC AREAS READY TO PROCEED TO EVIDENTIARY HEARING

Orange Grove believes all topics are complete and ready to proceed to evidentiary hearings. With regard to Air Quality, Orange Grove agrees with Staff that the San Diego Air Pollution Control District Final Determination of Compliance (FDOC) should be incorporated in an update to Staff's Air Quality analysis. Orange Grove anticipates that the FDOC will become available during the week of December 1, 2008.

With regard to biological resources, Orange Grove is waiting for final resolutions from the United States Fish and Wildlife Service and the California Department of Fish and Game regarding the appropriate setback in riparian areas for boring pits.

III. TOPIC AREAS NOT READY TO PROCEED TO EVIDENTIARY HEARING

As stated above, Orange Grove believes that all topic areas are complete and ready to proceed to evidentiary hearings.

IV. TOPIC AREAS IN DISPUTE AND REQUIRING ADJUDICATION

Orange Grove believes it will be able to resolve all hazardous materials, noise and biological resources issues with Staff prior to the Prehearing Conference. Therefore, Orange Grove does not anticipate that any of these areas will require adjudication. Orange Grove has provided additional information to support resolution of the biological resources issue – how far to set the bore pit locations back from the riparian area – in Attachment C.

Orange Grove does not know what topic areas may or may not be in dispute with intervenors Anthony Arand, Archie McPhee, or the Alliance for a Cleaner Tomorrow (ACT). Mr. McPhee was the only intervenor to appear at the Staff Assessment Workshop on November 20, 2008. Mr. McPhee had questions regarding water supply from the Fallbrook Public Utility District (FPUD), and the characrerization of the cooling water as "recycled" water. Instead, Mr. McPhee would like the water characterized as "reclaimed" water.

Orange Grove is not aware of any disputed topics with any other party.

V. ORANGE GROVE'S WITNESS LIST

Set forth below is a list of hearing topics, associated witnesses, summaries of the topics of the witnesses' testimony, and estimated time for their direct testimony, based upon current information. All witnesses have professional expertise in the discipline of their testimony. The witnesses' qualifications were included in Orange Grove's Exhibit 18 – Witness Declarations and Resumes, Professional Qualifications and Experience, filed on November 18, 2008. Each witness will testify as to the project's compliance with applicable laws, ordinances, regulations

and standards (LORS), the environmental impacts of the project, and the proposed conditions intended to mitigate potential impacts.

DIRECT TESTIMONY WITNESS LIST			
Topic	**Witness**	**Summary of Testimony**	**Time**
Executive Summary/ Project Description	Michael Jones, J-Power USA Development Co. Stephen Thome, J-Power USA Development Co. Joe Stenger, TRC Companies, Inc.	Sponsoring the Application for Certification (AFC).	5 minutes, if not presented by declaration.
Air Quality	Douglas Murray, TRC Companies, Inc.	The Orange Grove Project complies with applicable Air Quality LORS and will not create a significant adverse environmental impact.	5 minutes, if not presented by declaration.
Biological Resources	- Elisha Back, TRC Companies, Inc. - Ceri Williams-Dodd, Vandermost Consulting Services, Inc.	The Orange Grove Project complies with applicable Biological Resources LORS and will not create a significant adverse environmental impact. Presentation of measures to adequately protect riparian areas.	15 minutes if Orange Grove is unable to reach an agreement on setbacks from riparian areas with Staff.
Cultural Resources	- Thomas Jackson, Pacific Legacy, Inc. - Wendy Tinsley, Urbana Preservation and Planning - Joseph Stenger, TRC Companies, Inc.	The Orange Grove Project complies with applicable Cultural Resources LORS and will not create a significant adverse environmental impact.	5 minutes, if not presented by declaration.
Hazardous Materials	- Todd Stanford, TRC Companies, Inc. - Joseph Stenger, TRC Companies, Inc.	The Orange Grove Project complies with applicable Hazardous Materials LORS and will not create a significant adverse	15 minutes if Orange Gove is unable to reach an agreement on conditions of certification HAZ-3 and 6.

DIRECT TESTIMONY WITNESS LIST			
Topic	**Witness**	**Summary of Testimony**	**Time**
		environmental impact.	
Land Use	- Joseph Stenger, TRC Companies, Inc. - Robert Prohaska, TRC Companies, Inc.	The Orange Grove Project complies with applicable Land Use LORS and will not create a significant adverse environmental impact.	5 minutes, if not presented by declaration.
Noise and Vibration	- Robert Mantey, Alliance Acoustical Consultants, Inc.	The Orange Grove Project complies with applicable Noise and Vibration LORS and will not create a significant adverse environmental impact.	15 minutes if Orange Grove is unable to reach an agreement with Staff on noise
Public Health	- Douglas Murray, TRC Companies, Inc. - Karen Vetrano, TRC Companies, Inc.	The Orange Grove Project complies with applicable Public Health LORS and will not create a significant adverse environmental impact.	5 minutes, if not presented by declaration.
Socioeconomic Resources	- Joseph Stenger, TRC Companies, Inc.	The Orange Grove Project complies with applicable Socioeconomic Resources LORS and will not create a significant adverse environmental impact.	5 minutes if not presented by declaration.
Soil and Water Resources	- Joseph Stenger, TRC Companies, Inc. - Michael Jones, J-Power USA Development Co. - Joseph Bondank, Sega Inc.	The Orange Grove Project complies with applicable Soil and Water Resources LORS and will not create a significant adverse environmental impact.	5 minutes, if not presented by declaration.
Traffic and Transportation	- Joseph Stenger, TRC Companies, Inc. - Ruth Davis, TPG Consulting	The Orange Grove Project complies with applicable Traffic and Transportation LORS and will not create a significant adverse	5 minutes, if not presented by declaration.

DIRECT TESTIMONY WITNESS LIST			
Topic	**Witness**	**Summary of Testimony**	**Time**
		environmental impact.	
Transmission Line Safety and Nuisance	(Addressed in Facility Design)		
Visual Resources	- Joseph Stenger, TRC Companies, Inc.	The Orange Grove Project complies with applicable Visual Resources LORS and will not create a significant adverse environmental impact.	5 minutes, if not presented by declaration.
Waste Management	- Joseph Stenger, TRC Companies, Inc.	The Orange Grove Project complies with applicable Waste Management LORS and will not create a significant adverse environmental impact.	5 minutes, if not presented by declaration.
Worker Safety	- Michael Jones, J-Power USA Development Co. - Joseph Stenger, TRC Companies, Inc.	The Orange Grove Project complies with applicable Worker Safety LORS and will not create a significant adverse environmental impact.	5 minutes, if not presented by declaration.
Engineering Assessment: Facility Design, Power Plant Efficiency, Power Plant Reliability, Transmission System Engineering	- Michael Jones, J-Power USA Development Co. - Joseph Bondank, Sega Inc. - Ronald Thomas, self employed consultant.	The Orange Grove Project complies with applicable Facility Design, Power Plant Efficiency, Power Plant Reliability, and Transmission System Engineering LORS and will not create a significant adverse environmental impact.	5 minutes, if not presented by declaration.
Engineering Assessment: Geology and Paleontology	- Joseph Stenger, TRC Companies, Inc.	The Orange Grove Project complies with applicable Geology and Paleontology LORS and will not create a significant adverse environmental	5 minutes, if not presented by declaration.

DIRECT TESTIMONY WITNESS LIST			
Topic	**Witness**	**Summary of Testimony**	**Time**
		impact.	
Alternatives Analysis	- Joseph Stenger, TRC Companies, Inc. - Michael Jones, J-Power USA Development Co. - Stephen Thome, J-Power USA Development Co.	There are no feasible alternatives.	5 minutes, if not presented by declaration.
Conditions of Certification	- Joseph Stenger, TRC Companies, Inc. - Michael Jones, J-Power USA Development Co.	Presentation regarding Applicant's comments concerning Conditions of Certification.	5 minutes, if not presented by declaration.

VI. CROSS-EXAMINATION

Orange Grove would like to reserve the right to cross-examine all witnesses in disputed topics. At this time, Orange Grove does not yet know what other testimony will be submitted beyond that of the Energy Commission Staff. Because Orange Grove cannot anticipate the timing or scope of topic areas that may be addressed by other parties, Orange Grove hereby reserves the right to cross-examine witnesses introduced by those other parties.

VII. EXHIBIT LIST

The table below sets forth a list of exhibits Orange Grove expects to present at the evidentiary hearings. This list is based upon currently available information. As Orange Grove reviews any testimony provided by the intervenors, Orange Grove may need to develop rebuttal testimony and additional items may be added and unnecessary items may be removed. Orange Grove does not know the subject areas or extent of testimony other parties may offer at the evidentiary hearings. Orange Grove anticipates using additional exhibits if other parties offer testimony. Orange Grove is not specifically referencing any LORS as exhibits, but will rely on applicable LORS, case law and decisions of this Commission and the Public Utilities Commission.

Exhibit	Document Name	Technical Area(s)
Exhibits Produced By Applicant		
1	Orange Grove Project Application for Certification, June 2008.	All Areas
2	Supplement to the Application for Certification – Orange Grove Project.	Biological Resources; Generation Facility Description, Design, and Operation; Water Resources
3	Information Submitted Under Confidentiality Pursuant to 20 CCR §2505, Cultural Resources Surveys and Records Searches, Orange Grove Project.	Cultural Resources (Confidential)
4	Circulation Element Draft and Agency E-Mail Contacts.	Traffic and Transportation
5	E-mail From Joe Stenger to Jim Adams Regarding Orange Grove Water Trucks.	Traffic and Transportation
6	Grading Permit Application for the Orange Grove Project.	Generation Facility Description, Design, and Operation
7	Orange Grove Project Responses to Data Requests 1-73.	Air Quality; Alternatives Analysis; Biological Resources; Cultural Resources; Generation Facility Description, Design, and Operation; Hazardous Materials Handling; Public Health; Socioeconomics; Soil and Water Resources; Transmission System Design, Safety and Nuisance; Waste Management; Worker Safety and Fire Protection
8	Axle Count and Daily Classification Report.	Traffic and Transportation
9	E-Mail from Joe Stenger to Jim Adams Regarding SR-76 California Legal Advisory Route.	Traffic and Transportation
10	Orange Grove Energy AFC – Responses to Data Requests from the September 11, 2008 Workshop and Other Data Requests.	Air Quality; Biological Resources; Cultural Resources; Hazardous Materials Handling; Soil Resources; Transmission Line Safety and Nuisance; Waste Management; Water Resources; Worker Safety
11	Information Submitted Under Confidentiality Pursuant to 20 CCR § 2505, Cultural Resource Study, Orange Grove Project.	Cultural Resources (Confidential)
12	Cumulative Air Quality Impact Assessment.	Air Quality
13	E-mail from E. Back to M. Moreno Regarding Orange Grove HLP.	Biological Resources
14	E-mail from J. Stenger to J. Adams Regarding Orange Grove Energy Initial Water Hauling.	Water Resources
15	Letter-Report Geoarchaeological Investigation for the Orange Grove Project Gas Pipeline.	Cultural Resources
16	(reserved)	
17	Orange Grove Energy, L.P. Comments to the Orange Grove Project Preliminary Determination of Compliance.	Air Quality
18	Witness Declarations and Resumes. (a) Executive Summary/Project Description (b) Air Quality (c) Biological Resources (d) Cultural Resources (e) Hazardous Materials	All Areas

Exhibit	Document Name	Technical Area(s)
	(f) Land Use (g) Noise and Vibration (h) Public Health (i) Socioeconomic Resources (j) Soil and Water Resources (k) Traffic and Transportation (l) Visual Resources (m) Waste Management (n) Worker Safety (o) Engineering Assessment: Facility Design, Power Plant Efficiency, Power Plant Reliability, Transmission System Engineering (p) Engineering Assessment: Geology and Paleontology (q) Alternatives (r) Conditions of Certification	
19	Agreed Upon Changes to Staff Assessment	(pending)
20	Habitat Loss Permit Status	Biological Resources?
21	Water Truck Speed Along SR-76	Traffic and Transportation
22	Letter on Setback from Riparian Area	Biological Resources
Exhibits Produced By Other Agencies		
50	Caltrans - Comments on Orange Grove Project.	Generation Facility Description, Design, and Operation; Transmission Line Safety and Nuisance
51	California Regional Water Quality Control Board, San Diego Region - Comments on the Application for Certification for the Orange Grove Power Plant Project, California Energy Commission.	Generation Facility Description, Design, and Operation; Water Resources
52	Rainbow Municipal Water District - Comments on Orange Grove Project.	Water Resources
53	United States Fish and Wildlife Service - Comments on the Orange Grove Project Biological Report.	Biological Resources
54	Mercy Medical Transportation, Inc. - Letter Regarding EMS Services, Orange Grove Project.	Worker Safety
55	Meeting with the U.S. Fish and Wildlife Service and the CA Department of Fish and Game Agenda.	Biological Resources
56	E-mail from Michael Porter of Regional Water Quality Control Board, San Diego, to Cheryl Closson Regarding Orange Grove Power Plant Project in Northern San Diego County.	Water Resources
57	Grant of Confidential Designation of Information Submitted Under Confidentiality Pursuant to 20 CCR §2505, Cultural Resources Surveys and Records Searches from June 25, 2008.	Cultural Resources
58	Grant of Confidential Designation of Supplemental Archaeological Survey Report for the Monserate to Pala Substation Transmission Line Reconductoring from October 6, 2008.	Cultural Resources

59	Letter from SDG&E Regarding Clarifying Mitigation for Transmission System Upgrades.	Biological Resources
60	San Diego Air Pollution Control District Final Determination of Compliance, Orange Grove Project.	Air Quality
Remaining numbers reserved for additional exhibits.		

VIII. SCHEDULING MATTERS

Orange Grove believes further discussion may would be helpful to resolve issues regarding revisions to the Staff Assessment in the areas of Biological Resources, Hazardous Materials Handling, and Noise and Vibration. Orange Grove requests an hour during the Prehearing Conference to conduct a workshop-type discussion regarding these areas of the Staff Assessment in order to resolve them before the Evidentiary Hearings.

With regard to briefing, Orange Grove proposes setting a deadline of January 9, 2009 for the opening brief and a deadline of January 23, 2009 for the reply brief, given that the evidentiary hearings will not conclude until after December 19, 2008.

Orange Grove anticipates that vacation schedules will not impact the briefing schedule for the Orange Grove Project proceedings.

IX. PROPOSED MODIFICATIONS TO CONDITIONS OF CERTIFICATION

Orange Grove's comments on the Staff Assessment and Conditions of Certification contained in the Staff Assessment were discussed at the November 20, 2008 Staff Assessment Workshop. Orange Grove submitted its proposed changes in the form of a redline version of the Staff Assessment prior to the workshop on November 20, 2008. Most issues were discussed in the workshop leaving only biological resources for further clarification. Orange Grove learned today that Staff had some concerns about Orange Grove's proposed changes to the conditions and text in the subject areas of hazardous materials and noise and vibration. Orange Grove has been unable to discuss these changes with Staff believes an opportunity to do so including all other parties on December 1st may resolve these issues.

Therefore, Orange Grove does not have a complete set of agreed upon changes to the conditions of certification to file at this time.

X. ADDITIONAL REQUESTED TOPICS FROM COMMITTEE'S NOVEMBER 20, 2008 E-MAIL

On November 20, 2008, the Committee sent nine additional questions for inclusion in the Prehearing Conference Statements of Applicant and Staff. Applicant's responses to these questions are as follows.

A. STATUS OF THE SAN DIEGO COUNTY HABITAT LOSS PERMIT

The Committee asked about the status of the San Diego County Habitat Loss Permit and would like to know when it is expected to be issued.

Orange Grove expects the Habitat Loss Permit to issue around March 1, 2008. Please refer to Attachment A for more information regarding the status of the Habitat Loss Permit.

B. "FINAL DOCUMENTS" REFERRED TO IN HAZ-2

The Committee asked whether the "final documents" referred to in Hazardous Materials Condition 2 (HAZ-2) are the Business Plan and/or Risk Management Plan. The Committee also asked whether the condition included in HAZ-2 contemplates any other documents.

Orange Grove understands the "final documents" reference in HAZ-2 to include only the Business Plan and the Risk Management Plan.

C. IMPACT OF COMPATIBILITY WITH ADJACENT LAND USES ON ISSUANCE OF MAJOR USE PERMIT

The Committee noted a statement in the Staff Assessment providing that "the proposed project is not compatible with adjacent land uses." The Committee wishes to know whether this would preclude the issuance of a Major Use Permit.

As a result of the November 20, 2008 Staff Assessment Workshop, the statement referenced by the Committee was revised to read, "[w]ith respect to compatibility with adjacent land uses and giving consideration to scale, bulk, coverage, density, the availability of public facilities, services, utilities, and intensity of use the proposed project may not be compatible with adjacent land uses. Compatibility is evaluated and affirmed under the heading of

COMPATIBILITY WITH EXISTING SURROUNDING LAND USES in the Land Use section of the SA." The compatibility with existing surrounding land use section of the SA has also been revised and now states: "The proposed project is consistent with the San Diego County General Plan (SDGP) land use designation and the zoning classification for the site lands by virtue of Major Impact Services and Utilities being allowable by Major Use Permit if a finding of compatibility can be made (See the Compliance with LORS section). The proposed project would be compatible with existing and planned surrounding uses."

D. CIRCUMSTANCES UNDER WHICH STAFF WOULD REVISIT THE ISSUE OF TRAFFIC IMPACTS.

The Committee noted that pages 4.10-6 and 4.10-8 of the Staff Assessment state: "[i]f the delivery routes or the number of truck trips changes, staff would revisit the issue." The Committee would like to know when and how Staff will revisit the issue.

Staff is currently revising this section of the Staff Assessment to clarify the circumstances under which Staff would revisit the issue. Staff will provide these revisions to the Committee in an Addendum to the Staff Assessment to be filed on or around December 5, 2008.

E. ABILITY OF WATER TRUCKS TO TRAVEL FROM FPUD RECLAIMED WATER FILLING STATION TO SITE ON SR-76 WHILE CARRYING A FULL LOAD OF WATER

The Committee has asked whether the water trucks can safely travel at the speed limit uphill from the FPUD reclaimed water filling station to the Orange Grove site on SR-76 while carrying a full load of water. If not, the Committee would like to know what the effect would be on the Level of Service during peak periods.

Orange Grove does not anticipate the grade of SR-76 to substantially affect the speed of the water trucks. Orange Grove therefore expects no impact to the level of service. Please refer to Attachment B for more information.

F. IS THERE A HRSG IN THE ORANGE GROVE PROJECT?

The Committee notes that Visual Resources Condition 1 (VIS-1) mentions heat recovery steam generators (HRSGs). The Committee has asked whether there will be a HRSG in this project.

The reference to HRSG in VIS-1 is a typographical error that should be replaced with "SCR" to reflect the selective catalytic reduction system included with this project.

G. CLARIFICATION OF "IF NEEDED" TERM IN WASTE-1

Waste Management Condition 1 (WASTE-1) states that "[t]he project owner shall provide the resume of an experienced and qualified Professional Engineer or Professional Geologist, who shall be available for consultation during site characterization (if needed), demolition, excavation and grading activities, to the CPM for review and approval...." The Committee would like to know whether "if needed" refers to the consultation or the site characterization, and who would determine the necessity.

Orange Grove understands the "if needed" condition to apply only to site characterization. Orange Grove plans to make available a qualified Professional Engineer or Professional Geologist at any point where construction activities could come across an unanticipated cultural resource. Therefore, Orange Grove plans to make this professional available not only for the site characterization, but also for demolition, excavation and grading activities.

H. TIMING IN WORKER SAFETY CONDITION 6

Worker Safety Condition 6 (WORKER SAFETY-6) begins with "[a]t least sixty days prior to the start...." The Committee would like to know whether the timing should be articulated in the verification rather than the condition.

A change to WORKER SAFETY-6 was proposed during the November 20, 2008 Staff Assessment Workshop. The proposed revision to WORKER SAFETY-6 now articulates the timing in the verification rather than in the condition. The condition and verification now read as follows:

WORKER SAFETY-6 Prior to start of any site activities, the project owner shall provide to the CPM for review and approval either written proof in the form of a legally binding contract with the North County Fire Protection District for private fire response and emergency medical services for the project during construction, commissioning, and operations or written proof that the County of San Diego has designated a fire protection district and that the district will provide the above-mentioned services.

Verification: At least thirty (30) days prior to the start of any site activities, the project owner shall provide proof of fire and EMS services to the CPM for review and approval.

I. STAFF'S IDENTIFICATION OF PUBLIC COMMENTS RELIED UPON BY STAFF'S ANALYSIS

Staff has indicated that it will provide the Committee with an identification of public comments relied upon in its analysis.

DATED: November 25, 2008

DOWNEY BRAND LLP

By: Jane E. Luckhardt

Jane E. Luckhardt

968702.2

ATTACHMENT A

"Habitat Loss Permit Status"

Habitat Loss Permit Status
Orange Grove Project

The County of San Diego Department of Public Works is currently processing the Habitat Loss Permit (HLP) for the Orange Grove project. The County expects to begin the Agency 45-day review period the first week of December. The draft permit would be sent to the California Department of Fish and Game (CDFG) and the U.S. Fish and Wildlife Service (USFWS) during this review period for comment. Comments from the review period would be due by the middle of January. The County would then include any agency comments and send out the draft permit for concurrence, which is expected to occur by February 1, 2008. The agencies (CDFG and USFWS) would then have 30 days to concur with the permit. If the County did not receive any final comments, the permit would become final at the end of the 30 days. The expected issuance date is around March 1, 2008.

ATTACHMENT B

"Water Truck Speed Along SR-76"

Water Truck Speed Along SR-76

The Applicant has reviewed USGS 7.5 minute quadrangle topographic maps to determine if there are any steep or extended climbs along the SR-76 water haul route. The USGS maps show the topographic relief along this road is low. The road follows the edge of the valley along the San Louis Rey River and is nearly flat with an average gradient around 3 vertical feet per 1000 feet. One small topographic saddle was identified on the route just east of I-15 where the USGS topographic map shows an approximately 1,000 foot long road segment which has a vertical gain of approximately 60 feet (six percent grade). This is the only notable hill identified and is short enough so as not to substantially affect the speed of the water trucks. No impact to Level of Service is expected.

ATTACHMENT C

"Orange Grove Project Site Plan"

ATTACHMENT D

"Letter on Setback from Riparian Area"

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, LLC	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	**COUNSEL FOR APPLICANT**
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Archie D. McPhee 40482 Gavilan Mountain Road Fallbrook, CA 92028 Archied1@earthlink.net	

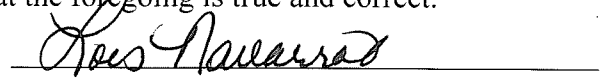
DECLARATION OF SERVICE

I, Lois Navarrot, declare that on November 25, 2008, I deposited a copy of the attached **Orange Grove's Prehearing Conference Statement** 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.



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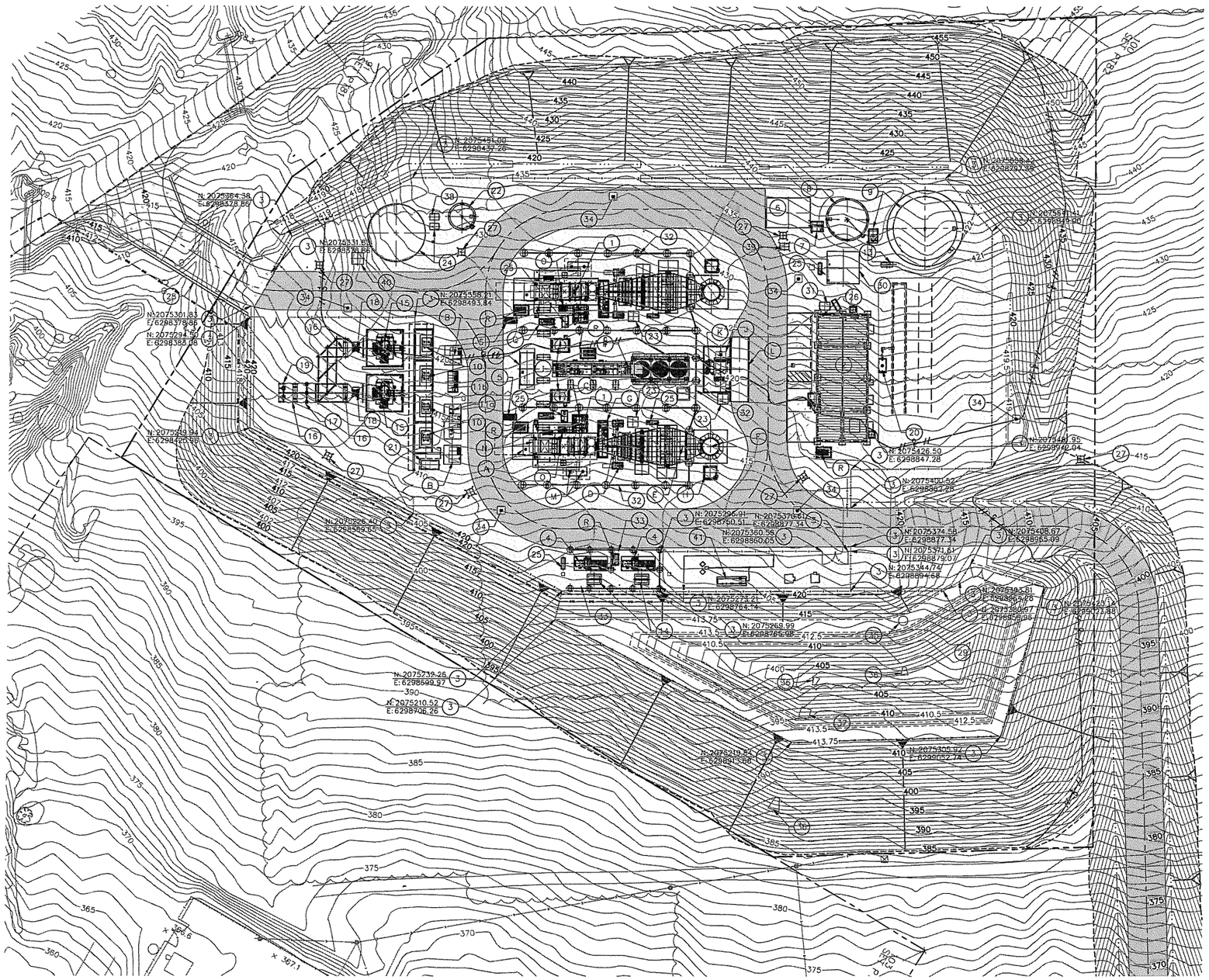

SITE LAYOUT PLAN

PLAN NORTH IS 29°55'46" CCW OF TRUE NORTH

40 0 40 80

SCALE IN FEET

EMISSION COORDINATES SYMBOL		
DESCRIPTION	NORTHING	EASTING
COMBUSTION TURBINE #1 (NORTH)	2075491	6298683
COMBUSTION TURBINE #2 (SOUTH)	2075387	6298743
DIESEL FIRE PUMP (±2')	2075517	6298766
BLACK START GENERATOR (±2')	2075379	6298582

KEYNOTES:

1. COMBUSTION TURBINE (CT), GENERATOR, AND AUXILIARY EQUIPMENT. (FOR EACH UNIT): (HEIGHT = 43' AT THE TOP OF VSV DUCT).
   - A MAIN TURBINE GENERATOR SKID ENCLOSURE.
   - B 13.8KV ELECTRICAL SWITCHGEAR.
   - C CT AUXILIARY EQUIPMENT SKID.
   - D TEMPERING AIR FANS (2).
   - E EMISSION CONTROL SYSTEM–SCR (HEIGHT = ±33').
   - F STACK (HEIGHT = 80').
   - G AMMONIA VAPORIZATION SKID.
   - H CEMS ENCLOSURE WITH TRANSFORMER AND CALIBRATION GAS STORAGE.
   - I CT LUBE OIL COOLER.
   - J AMMONIA STORAGE TANK (COMMON TO BOTH CT UNITS).
   - K AMMONIA FORWARDING PUMP SKID (COMMON TO BOTH CT UNITS).
   - L AMMONIA UNLOADING PAD, SPILL CONTAINMENT (COMMON TO BOTH CT UNITS).
   - M TURBINE REMOVAL SUPPORTS.
   - N AIR INLET FILTER (HEIGHT = 34').
   - O SPRINT SKID.
   - P INLET AIR CHILLER AND COOLING TOWER (COMMON TO BOTH CT UNITS) (HEIGHT = 30').
   - Q WATER INJECTION SKID.
   - R OILY DRAIN TANK.
2. SERVICE BUILDING FOR CONTROL ROOM, ELECTRICAL EQUIPMENT, FIRE PUMPS, COMPRESSED AIR. (HEIGHT = 18').
3. SITE SECURITY CHAINLINK FENCE AND GATES.
4. FUEL GAS COMPRESSORS.
5. GAS COALESCING FILTER SKID.
6. CONCRETE PAD FOR TEMPORARY WATER TREATMENT TRAILER.
7. DEMIN. WATER PUMP SKID AND RELATED EQUIPMENT.
8. DEMIN. WATER STORAGE TANK (HEIGHT = 24').
9. RAW WATER/FIREWATER STORAGE TANK & PUMP SKID (HEIGHT = 44').
10. AUXILIARY TRANSFORMERS.
11a. 4160V ELECTRICAL SWITCHGEAR.
11b. 480V ELECTRICAL SWITCHGEAR.
12. BLACKSTART GENERATOR.
13. IRRIGATION BOOSTER PUMP.
14. FUEL GAS COMPRESSOR RECYCLE FIN–FAN COOLER.
15. 13.8KV–69KV GENERATOR STEP–UP TRANSFORMER (GSU).
16. 69KV DISCONNECT SWITCH AND SUPPORTS.
17. 69KV CT/VT METERING UNIT.
18. 69KV CIRCUIT BREAKER.
19. 69KV TRANSITION STRUCTURE & POTHEAD.
20. UNDERGROUND SANITARY SYSTEM.
21. TRANSFORMER DELUGE VALVE ENCLOSURE.
22. WASTEWATER STORAGE TANK (HEIGHT = 24').
23. COMBINATION SAFETY SHOWER & EYE WASH UNIT.
24. COOLING TOWER MAKEUP TANK AND PUMP SKID (HEIGHT = 36').
25. 480V MCC.
26. FIRE PUMP ROOM.
27. YARD FIRE HYDRANTS WITH HYDRANT MOUNT FIRE MONITORS.
28. BRIDGE.
29. STORMWATER DETENTION BASIN.
30. RO WATER TREATMENT AREA.
31. DIESEL STORAGE TANK – DIESEL FIRE PUMP.
32. GAS TURBINE SOUND WALL (HEIGHT = 48').
33. GAS COMPRESSOR SOUND WALL (HEIGHT = 24').
34. AREA INLET.
35. STORM MANHOLE.
36. STORM END SECTION.
37. STORMWATER OUTLET CONTROL STRUCTURE.

KEYNOTES CONT.:

38. TANK TRANSFER PUMP SKID.
39. FRESH WATER UNLOADING PUMP SKID.
40. RECLAIM WATER UNLOADING PUMP SKID.
41. SDG&E GAS METERING STATION.

REV.	DATE	DESCRIPTION	DWN	CHK
0	8-5-08	ISSUED FOR GRADING PERMIT	RAD	WHR
1	8-25-08	RE-ISSUED FOR GRADING PERMIT	BGG	WHR
2	11-10-08	RE-ISSUED FOR FIRE PROTECTION PLAN	BGG	JCB
3	11-11-08	RE-ISSUED FOR CEC	BGG	WHR

PERMITS

REZONE PERMIT NO. NOT APPLICABLE

SPECIAL USE PERMIT NO. NOT APPLICABLE

TENTATIVE MAP NO. NOT APPLICABLE

NOI/WDID NO. NOT YET ASSIGNED

BENCH MARK

DESCRIPTION: 3 1/2" brass disk "M.W.D. OF SOUTHERN CA S.D.6-69 1993"

LOCATION: S.E. CORNER OF MANHOLE

RECORD FROM: FIELD BOOK 4047-04-079

ELEVATION: 318.88' DATUM: NAVD88 AND NAD83

COUNTY APPROVED CHANGES

NO.	DESCRIPTION:	APPROVED BY:	DATE:

Sealed Only When Signed in Blue Ink

Sega®

Engineers – Architects – Technicians
Design – Construction – Field Service

16041 Foster
P.O. Box 1000
Stilwell, Kansas 66085-1000

ORANGE GROVE ENERGY L.P.
Schaumburg, IL

ORANGE GROVE PROJECT

SITE LAYOUT PLAN

DESIGN BY:	CHECKED BY:
B. ROMINES	J. BONDANK
DRAWN BY:	DATE:
B. GASPERS	9-12-07
CLIENT I.D.	SEGA PROJECT NO.
ICC00101	07-201

CADD FILE NAME: 07201-C100.dwg

DRAWING NO. C100 REV. 3

PRIVATE CONTRACT

3 SHEET	COUNTY OF SAN DIEGO DEPARTMENT OF PUBLIC WORKS	67 SHEET

GRADING PLAN FOR:
THE CONSTRUCTION AND OPERATION OF THE ORANGE GROVE POWER PLANT, AN ELECTRIC GENERATOR FACILITY. ALSO, THE INSTALLATION OF A 10" NATURAL GAS PIPELINE TO PROVIDE THE PLANT WITH FUEL ENERGY.

CALIFORNIA COORDINATE INDEX 434-1736/434-1737

APPROVED FOR MOHAMAD FAKHRIDDINE
COUNTY ENGINEER
BY:

ENGINEER OF WORK
THOMAS F. HEAUSLER
C040363 R.C.E. 3-31-09

L-15454
GRADING PERMIT NO.

SEGA, INC.
PHONE NUMBER: (913) 681-2881

N:\2007\07201\dwgs\ce\07201-C100.dwg 11/11/08 2:00pm bcaspers

21 Technology Drive
Irvine, CA 92618

949.727.9336 PHONE
949.727.7399 FAX

www.TRCsolutions.com

November 25, 2008

Ms. Felicia Miller
California Energy Commission
1516 9th Street
Sacramento, CA 95814-5512

RE: Proposed Modification to Condition of Certification BIO-7

Dear Ms. Miller:

As we discussed at the Orange Grove Energy Staff Assessment Workshop on November 20, 2008, Orange Grove Energy, L.P. is proposing a modification to Condition of Certification **BIO-7** included in the Staff Assessment dated November 2008. BIO-7 currently requires that no construction activities should occur within 300 feet of riparian habitat from March 1 through September 15 to avoid impacts to sensitive species inhabiting riparian habitat along the San Luis Rey River. This proposed setback is substantially more than the minimum 100-foot setback provided for in the project design drawings submitted to the California Energy Commission (CEC) by the Applicant (e.g., see Exhibit 22-1, *Limited Construction Period Area for Southern Riparian Forest*, in Responses to Data Requests 1-73 (Set No. 1) dated August 2008). While most of the project construction activities will occur much more than 300 feet from riparian habitat, surface work (i.e., the boring pit and receiving pit) for the horizontal boring that is proposed for gas pipeline installation must occur closer than 300 feet from the closest riparian habitat due to the geometry of the riparian area boundaries, as further explained below. The horizontal boring is proposed if the project pipeline construction occurs in this area between March 1 and September 15 (the breeding/active season for the arroyo toad, least bell's vireo and other bird species inhabiting the riparian habitat) and is, in itself, a mitigation measure to avoid direct disturbance to the riparian zone and to minimize indirect disturbance.

As shown on the graphic included in Attachment A, it is not physically possible to locate the boring pit and receiving pit for the horizontal boring 300 feet away from existing riparian habitat. The figure in Attachment A graphically depicts on an aerial photograph the existing southern riparian forest area located between the two former dairy sites within the project area, and the location of the bore pit and exit pit as proposed in the project design drawings. Attachment A also shows the 300 foot distance from the riparian habitat depicted in the attachment as a yellow line. To extend the bore to the southwest would put the exit pit closer to riparian habitat. To extend the bore to the northeast could achieve some additional setback, but there is no way to get the bore pit 300 feet from the riparian habitat. Extending the bore to the northeast would increase

the length of the bore and result in horizontal boring rig use and human presence in the vicinity of the riparian habitat occurring over a longer period of time.

Orange Grove Energy has evaluated the 300 foot setback proposed by CEC staff compared to the 100 foot setback incorporated in the project design and has determined that there additional mitigation can be added to the project proposal that will be more effective than increasing the setback from the current project design of 100 feet. Specifically, Orange Grove Energy is proposing to add a temporary visual screen and sound-curtain to the proposed 100 foot setback if construction will occur in the area between March 15 to September 15 and active nests are present within 300 feet of construction. The visual screen and sound curtain will visually shield the bore pit and exit pit locations from nearby riparian habitat and will effectively attenuate potential construction noise. A temporary sound curtain would be constructed to enclose the bore and exit pits. The enclosure would be designed specifically for the equipment to be used and is expected to be approximately 20 feet tall. It would be built on a temporary frame with sound attenuation curtains fastened to the frame. The side of the sound curtain facing the riparian zone will be finished with a non-reflective earth-tone color or camouflage material to provide for effective visual screening. We have consulted with an acoustics expert who has experience in this noise mitigation technology and their experience has demonstrated that this technology would be more effective at reducing noise impacts to the riparian area than could be achieved by increasing the setback distance. Attachment B provides a technical memo from the noise expert with additional details and photographs depicting a similar sound curtain implemented for another project. As described further in Attachment B, with a properly designed and carefully constructed sound curtain enclosure system, noise reduction of at least 12 to 15 dB and up to 20 dB could be achieved, compared to about 9 to 10 dB that would be achieved by increasing the setback distance from 100 to 300 feet. In addition to this noise mitigation measure, the following are proposed in conjunction with the 100 foot setback included in the project design:

- In contrast to the example sound curtain photographs shown in Attachment B, Orange Grove Energy will commit to surfacing the outside of the enclosure with earth-tone or camouflage material (the sound curtain shown in the photographs was not designed to also provide visual screening as is proposed for this project.)

- Pre-construction nest surveys will be conducted if construction activities will occur within 300 feet of riparian habitat on the San Luis Rey River from March 15 through September 15 (Condition of Certification **BIO-8**).

- Before the start of construction within 300 feet of the riparian habitat on the San Luis Rey River, the Applicant will provide theoretical demonstration (i.e., calculations or modeling) that the proposed setback and sound curtain enclosure will reduce noise levels to 60 dB or less at the location of the closest active least Bell's vireo nest. This demonstration will be based on a final detailed design for the sound curtain and noise levels for the specific equipment to be used. Field monitoring by the Designated Biologist and a qualified acoustics expert will be performed during initial work activities at both the bore pit and the exit pit to demonstrate that noise reduction is achieved to levels of 60 dB or less at the closest active nest. Initial monitoring shall include field measurement of noise

generated by equipment operated up the full work load expected for the duration of activities. A detailed plan for monitoring will be included in the Biological Resources mitigation Implementation and Monitoring Plan (BRMIMP) required by CEC staff's proposed condition BIO-5.

- The Designated Biologist will be present for all work occurring within 300 feet of riparian habitat from March 1 through September 15 to ensure compliance with all Conditions of Certification.

Based on the above information, J-Power is proposing to revise Condition of Certification **BIO-7** in CEC's Staff Assessment. The proposed revision is included as Attachment C. As discussed above, the primary change is to reduce the setback from riparian habitat from 300 feet to 100 feet to match the project design presented in the Application for Certification, with additional measures to mitigate the potential impact to sensitive species that could be located in the riparian habitat using a temporary visual barrier and sound curtain.

Please do not hesitate to contact me if you have any questions regarding this submittal or need any additional information.

Sincerely,

Elisha Back
Principal
Irvine Natural Resources and Permitting

Attachments

A Figure depicting the design layout for the bore pit and exit pit and 300 foot distance from southern riparian forest

B Memo from Alliance Acoustical Consultants, Inc. re: noise attenuation from proposed sound curtain

C Proposed revisions to Condition of Certification BIO-7

ATTACHMENT A

Figure depicting the design layout for the bore pit and exit pit
and 300 foot distance from southern riparian forest

300'
Bore Pit
100'
210'
Construction Zone
LBV Single Male
Survey Area
300'
Pipe Segment Subject
to Limited Construction Period
Survey Area
LBV Pair 1 Area Observed
Construction Zone
145'
LBV Pair 2 Area Observed
100'
Exit Pit
LBV Pair 3
LBV Pair 3 + Juvenile
SR 76
300'
Temporary Impacts
Permanent Impacts
Former Dairy Farm

Diegan Coastal Sage Scrub (32500)
Disturbed (11300)
Open Coast Live Oak Woodland (71161)
Southern Riparian Forest (61300)
Urban Developed (12000)

Construction Zone
Limited Construction Zone
Proposed Gas Line
Survey Boundary
Alternate Boring

Alternate Impact Area
for Horizontal Bore Construction
Southern Riparian Forest Extent
Least Bell's Vireo Individual Sightings
Least Bell's Vireo Pairs

300 Foot Distance From
Southern Riparian Forest

Orange Grove Project

1" = 200'
200 100 0 200 400
Feet

Source:
Aerial Photography from ESRI_Imagery_World_2D

TRC

G:\Orange_Grove-125158\MXD\Limited Construction South Elisha.mxd

ATTACHMENT B

Memo from Alliance Acoustical Consultants, Inc.
re: noise attenuation from proposed sound curtain

Alliance Acoustical Consultants, Inc.
18023 Sky Park Circle, Suite H2
Irvine, CA 92614-6548
949-580-3593
949-580-3596 Fax
www.allianceacoustics.com

November 25, 2008
AAC Tech Memo 01, ver 2a

TRC Solutions
21 Technology Dr.
Irvine, CA. 92618

Attention: Joe Stenger, Project Manager

Subject: Orange Grove Project – Boring Noise Mitigation

Mr. Stenger:

Per discussions with you and Elisha Back (both of TRC), this Tech Memo provides some technical perspectives on noise mitigation for potential drilling/boring activities on the Orange Grove Project (OGP).

Introduction

The OGP is proposing to conduct horizontal boring work for construction of the gas pipeline under potential biological habitat areas. The boring pit and receiving pit are proposed to be set back away from biological habitat areas so there will be no physical disturbance to the habitat. The set-back zone will also reduce construction noise levels in the habitat areas, as compared to if the boring pit and receiving pit did not have a setback from the habitat. This memo briefly compares the noise reduction benefits of a 300 foot setback to the benefits of a 100 foot setback plus implementation of a noise blanket enclosure.

Buffer Zone Approach

The first and easiest approach to boring rig noise control is to simply provide a buffer distance between the noise source and the pertinent receptor location(s). The fundamental dissipation of sound energy (known as spherical spreading loss) equates to a 6 decibel ("dB") reduction for every doubling of this separation distance[1]. Other sound propagation factors, such as air absorption, ground effects, and scattering, would provide additional, real-world attenuation as sound energy moved away from the noise source(s), but for simplicity and conservatism, only spherical spreading losses will be considered here.

Buffer zone distances from 100 to 300 feet have been suggested as potentially necessary for noise reduction purposes for the horizontal drilling proposed for this project.

Given the spherical spreading loss relationship, increasing the distance between a boring rig and the nearest receptor location from 100 feet to 300 feet would yield a reduction in sound levels at the receptor location from 9 to 10 dB (not considering other attenuation factors).

[1] *Or, conversely, a 6 decibel increase in sound levels for every halving of the separation distance (but only up to the area known as the 'transition zone' and not into the area called the 'near-field' of the sound source).*

Noise Blanket Enclosure Approach

Alliance Acoustical Consultants, Inc. (AAC) has participated in several similar industrial and field equipment noise mitigation efforts over the years. As an example, AAC participated in the noise mitigation of a municipal water district project for by-passing the domestic water supply for a large portion of Orange County. The by-pass project involved the use of large, skid-mounted water pumps that were coupled to portable power generator rigs[2]. The project site was in a residential neighborhood that included apartments, houses of worship, and commercial offices; all were within 150 to 225 feet of the installation center.

The project erected a temporary noise blanket enclosure around the pumping and power generation equipment. The enclosure was approximately 20 feet tall. Attachment A shows pictures of the by-pass pumping equipment, the enclosure structure, and the blanketing. This kind of blanketing is available on a rental or a purchase basis.

Summary

As evidenced with this pumping by-pass project, with a properly designed blanket enclosure system, a reduction in boring rig noise of at least 12-15 dB could be easily obtained. With proper design and careful attention to construction details, a reduction of up to 20 dB may be achievable[3].

A 20 dB reduction from a properly designed and carefully constructed temporary noise control blanketing system would be equivalent to a 10-to-1 reduction in distance between the source and the receiver. That is, accounting only for distance attenuation, 20 dB would be approximately equivalent to moving the noise source from 100 feet to 1,000 feet away from the receptor point. Conversely, if a 300 foot buffer distance is an acceptable buffer on its own merit, then an installation as close as 30 feet could potentially produce the same noise levels with the installation of a properly designed and carefully constructed sound reduction blanketing enclosure (similar to the one used at the by-pass pumping project).

If you would like clarifications about the information in this document, please do not hesitate to contact us.

Thank you,

Bob Mantey

Bob Mantey
Principal Consultant
bmantey@allianceacoustics.com
Alliance Acoustical Consultants, Inc.

---

[2] *Three pumps were installed with the intent of running two at all times and having a back-up spare unit. Each pump was designed to handle up to 5,700 gpm with up to 390 feet of dynamic head pressure. The pumps were driven with electric motors powered by trailer-mounted, diesel-powered electrical generators.*

[3] *Expected reductions of 20 to 21 dB were calculated for the water by-pass installation.*

Attachment A
By-pass Pumping Project Pictures

aggreko
aggreko
aggreko
eko

ATTACHMENT C

Proposed revisions to Condition of Certification BIO-7

BIO-7 To prevent direct impacts to sensitive species inhabiting coastal sage scrub and riparian habitat along the San Luis Rey River, the following measures shall be implemented in riparian and coastal sage scrub habitat areas**:**

1. To avoid impacts to arroyo toad no vegetation removal or surface-disturbing activities shall occur within 100 feet of riparian habitat on the San Luis Rey River from March 1 through August 31. This prohibited construction window encompasses the breeding/active season for arroyo toads (March 1 through August 31). A toad exclusion fence shall be installed to prevent arroyo toad access to areas subject to traffic activities within 100 feet of riparian habitat on the San Luis Rey River between March 1 and August 31 (see Condition of Certification **BIO-12**);

~~1.~~2. To avoid impacts to ~~arroyo toad,~~ least Bell's vireo, and other sensitive species inhabiting the riparian habitat on the San Luis Rey River, no construction activities ~~should~~ shall occur within ~~3~~100 feet of riparian habitat from March 1 through September 15. This ~~limited~~ prohibited construction window encompasses the breeding/active season for arroyo toads (March 1 through August 31) and least Bell's vireo and other bird species inhabiting riparian habitat (March 15 through September 15);

3. ~~To avoid impacts to riparian vegetation and reduce the risk of water quality impacts, horizontal directional drilling shall be used rather than trenching to install the gas pipeline in the unpaved road through riparian habitat (the road shown on Figure 3 of the AFC (OGE 2008a) that extends from "East Dairy Farm Area" to "West Dairy Farm Area");~~

~~2.~~4. Pre-construction nest surveys shall be conducted if construction activities will occur within 300 feet of riparian habitat on the San Luis Rey River from March 15 through September 15 (see Condition of certification **BIO-8**). If an active nest is located within 300 feet of a construction area, a temporary noise and visual barrier shall be used during construction. The noise ~~barrier~~ and visual barriers shall be designed and installed in coordination with CDFG, USFWS and the County of San Diego Department of Public Works. The Applicant shall demonstrate through the noise barrier design and calculations or modeling, in conjunction with this coordination, that the noise barrier will attenuate construction noise levels to 60 dB or less at active least Bell's vireo nest sites. Field monitoring by the Designated Biologist and a qualified acoustics expert shall be performed during work to demonstrate that this required noise reduction is achieved. If no active nests are ~~found~~identified within 300 feet of a construction area, the~~is measure~~noise and visual barrier and related monitoring will not be required.

5. The noise barrier, if required pursuant to item 4, above, shall be constructed with a non-reflective earth-tone color or camouflage pattern on the outer surface.

~~3.~~6. The Designated Biologist shall be present for all work occurring within 300 feet of riparian habitat from March 1 through September 15 to ensure compliance with all Conditions of Certification.

~~4.~~7. To avoid impacts to coastal California gnatcatcher pre-construction nest surveys shall be conducted if construction activities will occur ~~and other sensitive birds nesting in coastal sage scrub, no vegetation removal or surface-disturbing activities shall occur~~ within 500 feet of coastal sage scrub from February 15 through August 31 (see Condition of Certification **BIO-8**). If active nests of coastal California gnatcatcher are identified within 500 feet of a construction area, construction shall not occur until the Designated Biologist determines that the nestlings have fledged and dispersed. The Designated Biologist may work with CDFG, ~~and~~ USFWS and the County of San Diego Department of Public Works to develop alternate impact minimization measures to allow work to occur within the 500 feet if agreed upon by the CPM, the Designated Biologist, CDFG, ~~and~~ USFWS, and the County of San Diego Department of Public Works. ~~The County of San Diego Director of Public Works and CPM may waive this condition, through written concurrence from the Designated Biologist, USFWS, and CDFG, if no nests are present in the vicinity of the brushing, clearing, or grading (see Condition of Certification **BIO-8**);~~

~~5.~~8. The Designated Biologist shall be present for all initial clearing and grubbing activities within coastal sage scrub to ensure compliance with all Conditions of Certification.

Verification: The limited construction periods and methods ~~described above~~to implement the above measures shall be included in the BRMIMP. Implementation of the measures will be described in the Monthly Compliance Reports and provided to the CPM. Within thirty (30) days after completion of project construction, the project owner shall provide to the CPM, for review and approval, a written construction termination report identifying how limited construction periods and methods have been completed.