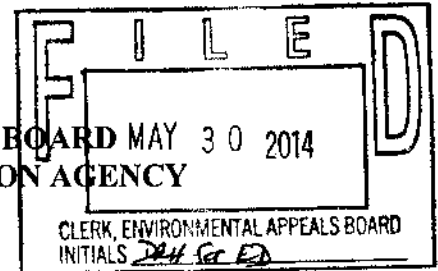


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



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In re: Energy Answers, LLC  
(Arecibo Puerto Rico Renewable Energy  
Project)

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)  
) PSD Appeal No. 14-04  
)  
)  
)

**ORDER DISMISSING APPEAL**

Leonardo Ramos-Hernandez appeals from a Clean Air Act Prevention of Significant Deterioration permit that U.S. Environmental Protection Agency Region 2 (“Region”) issued to Energy Answers Arecibo Puerto Rico Renewable Energy Project on April 10, 2014.<sup>1</sup> The Environmental Appeals Board (“Board”) previously considered and upheld an earlier version of this permit on nearly all grounds, but remanded the permit for the limited purpose of incorporating specific revisions to regulate biogenic greenhouse gas emissions. *In re Energy Answers Arecibo, LLC*, PSD Appeal Nos. 13-05 through 13-09 (EAB Mar. 25, 2014), 16 E.A.D. at \_\_\_\_\_. At that time, the Board indicated that it was not retaining jurisdiction of the final permit. *Id.* at 96 (stating that the Board “is not requiring an appeal to the Board on the final permit decision issued following remand.”); *see also* 40 C.F.R. § 124.19(d)(2)(iii)(providing that a permit decision is final for purposes of judicial review “upon the completion of remand proceedings if the proceedings are remanded, *unless the Environmental Appeals Board’s remand*

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<sup>1</sup> Mr. Ramos submitted via email to the Clerk of the Board a “Notice of Appeal.” The Board accepts the “Notice of Appeal,” as filed despite Mr. Ramos’ failure to file according to procedures and construes the Notice of Appeal as a Petition for Review under 40 C.F.R. § 124.19 which provides for appeals from PSD permitting decisions.

order specifically provides that appeal of the remand decision will be required to exhaust administrative remedies.”).<sup>2</sup>

In issuing the April 10, 2014, final permit, the Region explained:

[I]n accordance with 40 C.F.R. [§] 124.19, this letter serves as the final permit decision by EPA Region 2 for the *Energy Answers* PSD permit.  
\* \* \*

Public notice of this final agency action will be published in the Federal Register pursuant to 40 C.F.R. § 124.19. This determination is final Agency Action under the Clean Air Act (the Act). Under Section 307 (b)(1) of the Act, judicial review of this final action is available only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days from the date on which the final permit decision is published in the Federal Register.

U.S. EPA Region 2, Final Permit-Prevention of Significant Deterioration (PSD) of Air Quality, Energy Answers Arecibo Puerto Rico Renewable Energy Project (Apr. 10, 2014). The Region published notification of the Final Permit decision on May 19, 2014. 79 Fed. Reg. 28,710 (May 19, 2014). Based on the above, the Board lacks jurisdiction over this appeal and, accordingly, dismisses Mr. Ramos’ petition for review.

So ordered.<sup>3</sup>

Dated: MAY 30 2014

ENVIRONMENTAL APPEALS BOARD

By: Kathie A. Stein  
Kathie A. Stein  
Environmental Appeals Judge

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<sup>2</sup> In a footnote, the Board suggested that further review by the Board might be allowed if the Region were to clearly err in reissuing the permit. Nothing in Mr. Ramos’ petition or the reissued Final Permit, however, suggests that the Region did anything other than revising the permit as directed by the Board. Thus, no further review will be allowed.

<sup>3</sup> The three-member panel deciding this matter is composed of Environmental Appeals Judges Lesly M. Fraser, Catherine R. McCabe, and Kathie A. Stein.

**CERTIFICATE OF SERVICE**

I certify that copies of the foregoing *Order Dismissing Appeal* in the matter of Energy Answers, LLC, PSD Appeal No. 14-04, were sent to the following persons in the manner indicated:

**By U.S. First Class Mail**

**Certified, Return Receipt Requested:**

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Dated:

MAY 30 2014

 for Annette Duncan  
Annette Duncan  
Secretary