



EARTHJUSTICE

BOZEMAN, MONTANA DENVER, COLORADO HONOLULU, HAWAII
INTERNATIONAL JUNEAU, ALASKA OAKLAND, CALIFORNIA
SEATTLE, WASHINGTON TALLAHASSEE, FLORIDA WASHINGTON, D.C.

November 26, 2008

By Facsimile and Federal Express

Ms. Eurika Durr
Clerk of the Board
Environmental Appeals Board
U.S. Environmental Protection Agency
1341 G Street NW, Suite 600
Washington, D.C. 20005

Re: In re Desert Rock Energy Co., PSD Appeal Nos. 83-03 and 83-04

Dear Ms. Durr:

Earlier this afternoon, EPA Region 9 filed its Motion for Extension of Time to Respond to Petitions and Supplemental Briefs. Prior to filing the motion, counsel for EPA conferred with the undersigned counsel for Petitioners Dine Care, Grand Canyon Trust, San Juan Citizens Alliance, Sierra Club and WildEarth Guardians. The undersigned counsel specifically and repeatedly requested in writing that EPA state in its motion that those Petitioners and Petitioners Environmental Defense Fund and Natural Resources Defense Council do not oppose EPA's request for an extension of time until January 8, 2009 to file a response to the petitions and supplemental briefs in this case, provided that the Board allows those Petitioners until February 13, 2009 to file a reply to all responses filed in this case. While counsel for EPA included a specific description of Desert Rock Energy Company's opposition to EPA's motion, the agency refused to include a statement that specifically and accurately describes Petitioners' position.

These Petitioners hereby notify the Board that they intend to respond to the Motion for extension of time on or before December 2, 2008. We respectfully request that the Board consider our response before ruling on the motion. In the response we also reserve the right to address EPA's request for an extension of time to respond to New Mexico's motion to supplement the record. Counsel for EPA did not advise the undersigned that it was including such a request in the motion. Thank you.

Sincerely,


Nicholas F. Persampieri

Cc: counsel of record