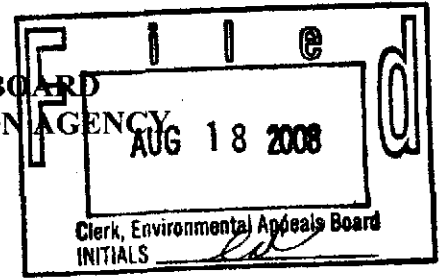


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)
)

Desert Rock Energy Company, LLC)
)

PSD Permit No. AZP 04-01)
)

PSD Appeal Nos. 08-03, 08-04

ORDER REQUESTING RESPONSE TO MOTIONS

On July 31, 2008, the United States Environmental Protection Agency, Region 9 ("Region") issued a prevention of significant deterioration ("PSD") permit (number AZP 04-01) (the "Permit") to Desert Rock Energy Company, LLC ("Desert Rock") for the construction of a new 1500 mega-watt (MW) coal-fired electric generating facility to be located approximately 25 miles southwest of Farmington, New Mexico. The Region is the permitting authority for this permit because the proposed facility will be located within the Navajo Indian Reservation and the Navajo Nation does not have an EPA-approved tribal NSR permitting program.

On August 14, 2008, the Environmental Appeals Board received a petition requesting that the Board grant review of the Region's permitting decision filed jointly by Dine Care, Environmental Defense Fund, Grand Canyon Trust, Natural Resources Defense Council, San Juan Citizens Alliance, Sierra Club, and WildEarth Guardians (hereinafter, the "NGO Petitioners"). As part of their petition, the NGO Petitioners request an extension of time to file a

supplemental brief in support of their petition, and they request a stay of certain issues pertaining to carbon dioxide emissions pending the Board's decision in another case that also raises issues concerning carbon dioxide. The NGO Petitioners request that they be granted an extension of time through October 17, 2008, to file a supplemental brief providing a complete and detailed description and the factual and legal basis for each objection they have to the Permit. The NGO Petitioners state that the additional time is needed because of the number and complexity of issues, the volume of relevant material, and the unavailability of their expert witnesses, among other things. The NGO Petitioners also request that the Board stay briefing on their contention that the Region was required to conduct a best available control technology ("BACT") analysis and establish a BACT emissions limit for carbon dioxide. They request that briefing of issues related to this contention be stayed until the Board resolves a pending challenge to the absence of a carbon dioxide BACT limit in the case of *In re Deseret Power Electric Cooperative*, PSD Appeal No. 07-03, currently pending before the Board.


On August 15, 2008, the State of New Mexico also filed a petition requesting that the Board grant review of the Permit. As part of its petition for review, New Mexico requested that the Board grant oral argument on its petition, and New Mexico filed a separate motion also requesting an extension of time through October 17, 2008, to file a supplemental brief in support of its petition. New Mexico states that it needs the extra time for its supplemental brief to adequately analyze and brief issues raised in New Mexico's petition. New Mexico observes, among other things, that the Region's response to comments on the draft permit is 220 pages long and includes an additional 42 attachments totaling several hundred pages.

To assist the Board in analyzing the above-referenced requests for additional time to brief the issues raised in the petitions, the request for stay of briefing on the carbon dioxide BACT issues, and the request for oral argument, the Board hereby requests that the Region file its response to these requests by 4:30 pm Eastern Daylight Savings Time, on Wednesday, August 20, 2008.

So ordered.

Dated: 8/18/08

ENVIRONMENTAL APPEALS BOARD

By: 

Edward E. Reich
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Requesting Response to Motions in the matter of Desert Rock Energy Company, LLC, PSD Appeal Nos. 08-03, & 08-04, were sent to the following persons in the manner indicated:

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Dated: AUG 18 2008


Annette Duncan
Secretary