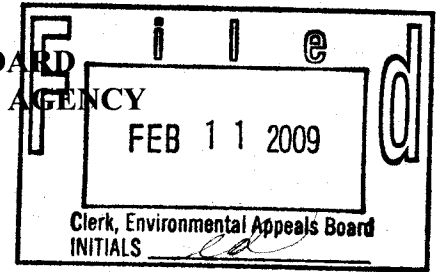


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



In re: )

Desert Rock Energy Company, LLC )

PSD Permit No. AZP 04-01 )

PSD Appeal Nos. 08-03, 08-04,  
08-05 & 08-06

**ORDER GRANTING MOTION FOR EXTENSION OF TIME  
TO FILE REPLY BRIEF**

On January 22, 2009, the Environmental Appeals Board (“Board”) granted review of a prevention of significant deterioration (“PSD”) permit decision (number AZP 04-01) (the “Permit”) issued by Region 9 (“Region”) of the United States Environmental Protection Agency (“EPA” or “Agency”) to Desert Rock Energy Company, LLC (“Desert Rock”) on July 31, 2008. *See generally* Order Granting Review, Staying the Carbon Dioxide BACT Issue, and Granting Motions to File Amicus/Nonparty Briefs Motions to File Reply Briefs (“Order Granting Review”). The Board had received four petitions for review of the Permit pursuant to 40 C.F.R. § 124.19(a): one from Diné Care, Environmental Defense Fund, Grand Canyon Trust, Natural Resources Defense Council, San Juan Citizens Alliance, Sierra Club, and WildEarth Guardians (collectively “NGO Petitioners”); one from the State of New Mexico (“New Mexico”); one from the Center for Biological Diversity (“CBD”); and from Ms. Leslie Glustrom.

In the Order Granting Review, the Board established February 13, 2009, as the date for

petitioners filing reply briefs to the responses from the Region, Desert Rock, and Diné Power Authority (“DPA”). *See* Order Granting Review at 6.

On February 10, 2009, the Board received a motion from New Mexico requesting an additional one-week extension due to the fact that lead counsel for the State underwent emergency surgery this past weekend and is unable to work for several days. N.M.’s Motion for Extension of Time to File Reply Brief at 1. In addition, the State’s other primary counsel also underwent a medical procedure several days ago. *Id.* at 2. New Mexico states that its motion is generally unopposed,<sup>1</sup> although the Region has requested that its surreply deadline of March 6, 2009, be similarly extended.

For the reasons stated above, the Board hereby GRANTS New Mexico’s motion. Accordingly, New Mexico’s reply brief is due on or before Friday, February 20, 2009. The Board also GRANTS the Region, Desert Rock, and DPA a commensurate additional length of time to file their surreply briefs. Consequently, all surreply briefs are due on or before Friday, March 13, 2009. The page limitations in the Board’s Order Granting Review still apply.

So ordered.

ENVIRONMENTAL APPEALS BOARD



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Edward E. Reich  
Environmental Appeals Judge

Date: February 11, 2009

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<sup>1</sup>According to New Mexico, neither Desert Rock nor the Region opposed the motion but, at the time of filing of the motion, a response had not yet been received from DPA.

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Order Granting Motion for Extension of Time to File Reply Brief in the matter of Desert Rock Energy Company, LLC, PSD Appeal Nos. 08-03, 08-04, 08-05, & 08-06 were sent to the following persons in the manner indicated:

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Secretary