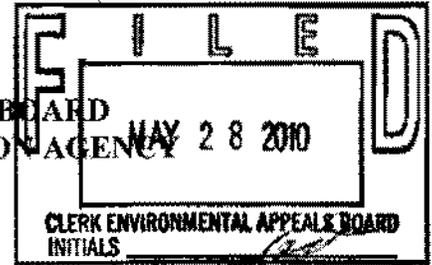


BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.



In re: )

Russell City Energy Center, LLC )

PSD Permit No. 15487 )

PSD Appeal No. 10-05

**ORDER GRANTING EXTENSION OF TIME IN WHICH TO FILE REPLY BRIEF**

By order dated May 19, 2010, the Environmental Appeals Board ("Board") granted the motion of petitioners CALifornians for Renewable Energy, Inc. ("CARE") and Mr. Rob Simpson for leave to file a reply brief in the above-captioned matter. Order Granting Motions to File Reply Briefs and Allowing Sur-Reply Briefs, Denying Motion to Conduct Discovery and a Hearing, and Rescheduling Oral Argument. The order set a twenty-five page limit for the reply brief and a May 28, 2010 filing deadline. *Id.* at 7. By motion dated May 27, 2010, Mr. Simpson now seeks to extend the filing deadline to "June 7, 2010 at 8am Eastern Time." Motion for Extension of Time to File Reply Brief I(May 27, 2010) ("Motion").

The Motion, signed by only Mr. Simpson, states that the request is "[c]onsistent with a request for extension previously granted to the [permit issuer, Bay Area Air Quality Management] District" in that the requested extension "constitutes only four additional business days" and "will not substantially delay the final resolution of this matter, and it will not cause prejudice to any other parties." *Id.* at 1. Mr. Simpson adds that he has limited resources and "significant additional work commitments." *Id.* at 1-2 (discussing work commitments).

Mr. Simpson has been on notice since the Board's order of May 6 that any reply brief would likely be due no later than May 28. Order Establishing Requirements for Motions to File a Reply Brief and Oppositions Thereto (May 6, 2010). Waiting until May 27 to request an extension of time is hardly timely. Moreover, the petition at issue in the Motion was filed by CARE and signed by Michael E. Boyd, its president. Mr. Simpson was shown as being a party to

this petition. While the Motion outlines why Mr. Simpson personally has difficulty meeting the due date, it nowhere explains why CARE cannot meet the due date.

Given that Mr. Simpson has been on notice for three weeks that a reply would likely be due today, and that he fails to explain why CARE (as opposed to him personally) needs additional time to file, the Board declines to grant the Motion as requested. However, the Board will grant an extension until June 1, 2010. That will allow Mr. Simpson the opportunity of utilizing the weekend, as well as next Tuesday, to prepare and file his reply. The Board will be receptive to comparable requests for extensions to file surreply briefs to Mr. Simpson's reply brief if requested,

Accordingly, on or before **Tuesday, June 1, 2010**, CARE/Mr. Simpson shall file<sup>1</sup> with the Clerk of the Board, and serve on all parties, its reply.

So ordered.

ENVIRONMENTAL APPEALS BOARD

*Kathleen A. Steen for Edward E. Reich*

Edward E. Reich

Environmental Appeals Judge

Date: *May 28, 2010*

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<sup>1</sup> A document is "filed" on the date it is received by the Clerk of the Board.

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Order Granting Extension of Time in Which to File Reply Brief in the matter of Russell City Energy Center, PSD Appeal No. 10-05 were sent to the following persons in the manner indicated:

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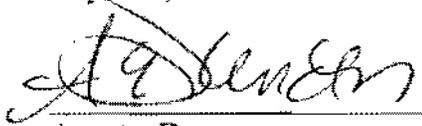
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Dated: **MAY 28 2010**

  
Annette Duncan  
Secretary