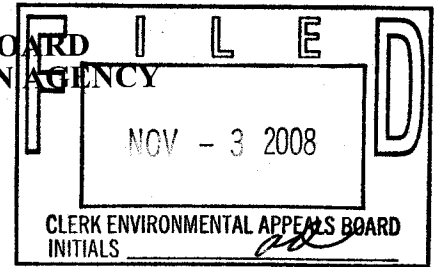


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re: _____)
Humboldt Bay Repowering Project)
_____)

PSD Appeal No. 08-08

ORDER EXTENDING TIME TO FILE RESPONSE

In a petition for review filed with the Board on September 29, 2008, Mr. Rob Simpson seeks review of a Prevention of Significant Deterioration ("PSD") permit issued to the Pacific Gas and Electric Company ("PG & E") for the Humboldt Bay Repowering Project. *See* Petition For Review (Sept. 29, 2008) ("Petition").¹ The permit was issued by California's North Coast Unified Air Quality Management District ("North Coast AQMD").

By letter dated October 2, 2008, Ms. Eurika Durr, the Clerk of the Board, sent a letter to the North Coast AQMD seeking a response to the Petition. *See* Letter from Eurika Durr, Clerk of the Board, to Mr. Richard L. Martin, Jr., North Coast AQMD (Oct. 2, 2008) ("EAB Letter").² This letter stated that if the North Coast AQMD determined that summary disposition was appropriate, it should file a response with the Board no later than October 17, 2009. EAB Letter at 1. The letter further stated that if a response seeking summary disposition was timely filed, Mr. Simpson "shall have 10 days from the date of service of a response seeking summary disposition to file a reply with the Board." *Id.* at 1 (footnote omitted). On October 15, 2008, the North Coast AQMD filed, and served on Mr. Simpson, a response seeking summary dismissal of the Petition. *See* Response of the

¹ Although the Petition is dated September 26, 2008, it was not received by the Board until September 29. Documents are "filed" with the Board on the date they are *received*.

² A copy of this letter was sent to Mr. Simpson. EAB Letter at 4.

North Coast Unified Air Quality Management AQMD Requesting Summary Dismissal (Oct. 15, 2008) ("North Coast Response").³ Mr. Simpson's response was therefore due on October 28, 2008.⁴

On October 31, 2008, Mr. Simpson, apparently unaware of the October 28 deadline, filed a motion seeking leave to respond to the North Coast Response and to the briefs filed by PG & E and the Region. Motion for Leave to File Response (Oct. 31, 2008). Mr. Simpson requests an additional 14 days to file its response.

Upon consideration, the Board has decided to extend the time period for Mr. Simpson to file a reply until November 14, 2008. Mr. Simpson's reply must be limited solely to the jurisdictional issue raised in the North Coast Response and in the briefs submitted by PG & E and the Region. The Board will not consider any additional issues at this time nor will it grant any additional extensions of time.

So ordered.

Dated: 11/3/08

ENVIRONMENTAL APPEALS BOARD

By: 

Edward Reich
Environmental Appeals Judge

³ PG & E and U.S. EPA Region 9 ("Region") have filed motions with the Board requesting leave to participate in this matter. See Pacific Gas and Electric Company's Motion for Leave to Intervene (Oct. 17, 2008); Motion of the United States Environmental Protection Agency, Region 9, for Leave to File A Brief as *Amicus Curiae* in Support of Summary Disposition (Oct. 21, 2008). Both PG & E and the Region have also filed briefs in support of summary disposition. See Intervenor PG & E's Opposition to Petition for Review an Motion for Summary Disposition (Oct. 17, 2008); United States Environmental Protection Agency Region 9's *Amicus Curiae* Brief in Support of Summary Disposition (Oct. 21, 2008). PG & E's and the Region's motions to participate in this matter are granted and their submissions are hereby incorporated into the record before the Board.

⁴ This date includes the ten days specified in the EAB Letter, plus an additional three days because the EAB Letter was served by mail. See 40 C.F.R. § 124.20(d) (Computation of time).

CERTIFICATE OF SERVICE

I hereby certify that copies of the forgoing Order Extending Time to File Response in the matter of Humboldt Bay Repowering Project, PSD Appeal No. 08-08, were sent to the following persons in the manner indicated:

First Class Mail:

Nancy Diamond, District Counsel
North Coast Unified Air Quality Management District
822 G Street, Suite 3
Arcata, CA 95521

David R. Farabee
Julie E. Macedo
Pillsbury Winthrop Shaw Pittman, LLP
50 Fremont Street
San Francisco, CA 94105


William V. Manheim
David T. Kraska
PG & E, Law Dept.
P.O. Box 7442
San Francisco, CA 94120

Rob Simpson
27126 Grandview Ave.
Hayward, CA 94542

By Pouch Mail:

Ann H. Lyons (ORC-2)
Assistant Regional Counsel
U.S. EPA Region 9
75 Hawthorne Street
San Francisco, CA 94105

Dated: NOV - 3 2008



Annette Duncan
Secretary