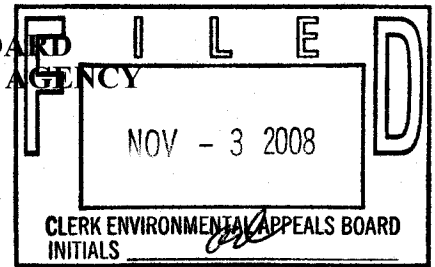


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:)

Russell City Energy Center)

PSD Appeal No. 08-07

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 decision relating to construction of the Russell City Energy Center ("RCEC"), a 600-megawatt natural gas-fired facility. See Petition For Review (Sept, 29, 2008) ("Petition").¹ Although not entirely clear from the Petition, Mr. Simpson appears to be objecting to a decision to extend the licensing period for the RCEC, a decision made by the California Energy Commission.²

On October 2, 2008, Ms. Eurika Durr, the Clerk of the Board, sent a letter to the Bay Area Air Quality Management District ("Bay Area AQMD") seeking a response to the Petition. See Letter from Eurika Durr, Clerk of the Board, to Mr. Jack Broadbent, Officer, Air Pollution Center, Bay Area Air Quality Management District (Oct. 2, 2008) ("EAB Letter").³ This letter stated that if the Bay Area 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

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 On July 29, 2008, this Board remanded a federal Prevention of Significant Deterioration permit issued by the Bay Area Air Quality Management District to the Russell City Energy Center so that the District could renotify the draft permit in accordance with the applicable notice provisions of 40 C.F.R. § 124.10. See *In re Russell City Energy Center*, PSD Appeal No. 08-01 (July 29, 2008), 13 E.A.D. ____.

³ A copy of this letter was sent to Mr. Simpson. EAB Letter at 4.

service of a response seeking summary disposition to file a reply with the Board.” *Id.* at 1-2 (footnote omitted). On October 17, 2008, the Bay Area AQMD filed a response seeking summary dismissal of the Petition with the Board. *See* Response to Petition for Review Requesting Summary Dismissal (“Bay Area AQMD Response”). The Bay Area AQMD Response was served on Mr. Simpson on October 16, 2008. *See id.* at 6. Mr. Simpson’s response was therefore due on October 29, 2008.⁴

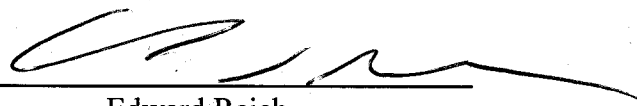
On October 31, 2008, Mr. Simpson, apparently unaware of the October 29 deadline, filed a motion seeking leave to respond to the Bay Area AQMD Response. Motion for Leave to File Response (Oct. 31, 2008). Mr. Simpson requests an additional 14 days to file its response.

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 Bay Area AQMD Response. 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

⁴This date includes the ten days specified in the EAB Letter, plus an additional three days because the EAB’s 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 Russell City Energy Center, PSD Appeal No. 08-07, were sent to the following persons in the manner indicated:

First Class Mail:

Alexander G. Crockett
Assistant Counsel
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

Rob Simpson
27126 Grandview Ave.
Hayward, CA 94542

Dated: **NOV - 3 2008**



Annette Duncan
Secretary