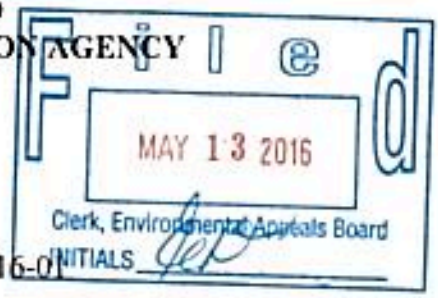
ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



In re:	)	
Arizona Public Service Company Ocotillo Power Plant	)	PSD Appeal No. 16-01
Maricopa County Air Quality Department PSD Permit No. PSD 16-01	)	

ORDER REQUESTING EPA'S OFFICE OF GENERAL COUNSEL, OFFICE OF AIR AND RADIATION, AND REGION 9 TO FILE A JOINT BRIEF

On March 22, 2016, the Maricopa County Air Quality Department ("MCAQD"), acting under a delegation of federal authority from Region 9 of the U.S. Environmental Protection Agency ("EPA"),[1] issued a Clean Air Act Prevention of Significant Deterioration ("PSD") permit to Arizona Public Service Company ("APS"). The permit authorizes APS to construct certain modifications to its existing Ocotillo Power Plant in Tempe, Arizona. On April 21, 2016, the Sierra Club filed a petition for review of MCAQD's Ocotillo permit decision.

By this Order, and consistent with prior practice, the Environmental Appeals Board ("Board") requests EPA's Office of General Counsel ("OGC"), Office of Air and Radiation

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[1] MCAQD administers the Clean Air Act PSD program in Maricopa County, Arizona, pursuant to its delegation of authority from U.S. EPA Region 9. *See* 40 C.F.R. § 52.21(u); Petition for Review attach. 3 (EPA Region 9 & MCAQD, *Agreement for Delegation of the Federal Prevention of Significant Deterioration (PSD) Program Set Forth in 40 CFR 52.21 by [EPA Region 9] to [MCAQD]*, Doc. No. C-85-16-005-3-00 (Feb. 8, 2016)). Because MCAQD acts as EPA's delegate in implementing the federal PSD program, MCAQD's permits are considered EPA-issued permits, and appeals from the permit decisions are decided by the Board pursuant to 40 C.F.R. § 124.19. *See* 40 C.F.R. § 124.41; *see also In re W. Suburban Recycling & Energy Ctr., LP*, 6 E.A.D. 692, 695 n.4 (EAB 1996).

("OAR"), and Region 9 jointly to file a brief addressing the following issues presented in this appeal:

(1) Whether MCAQD failed to properly identify, in Step 1 of its Best Available Control Technology analysis, the pairing of energy storage with combustion turbines as a potentially available and applicable control technology.

(2) In responding to Issue (1), please include your views on whether pairing of energy storage with combustion turbines at the Ocotillo Power Plant would "redefine the source."

After a preliminary review of the petition and response briefs filed by MCAQD and APS, the Board believes that the collective views of EPA Region 9, OGC, and OAR could assist the Board in efficiently resolving this time-sensitive PSD matter. Accordingly, the Board requests that OGC, OAR, and EPA Region 9 file a joint brief, on or before **Friday, May 27, 2016**, addressing the two issues set forth above.

Additionally, on May 6, 2016, permittee APS filed a Motion to Expedite this matter, asserting in essence that prompt review of this PSD permit is in the public interest so that APS can reliably meet the existing and future energy needs of its customers. As APS's Motion observes, the Board is fully cognizant of the time-sensitive nature of PSD matters and prioritizes these cases as a matter of course. Motion at 6-7 (citing Revised Order Governing Petitions for Review of Clean Air Act New Source Review Permits (EAB Mar. 27, 2013)); *see* 78 Fed. Reg. 5281, 5285-88 (Jan. 25, 2013) (revising the Board's procedural regulations to facilitate the expeditious resolution of PSD and other new source appeals while giving fair consideration to the issues raised in any given matter); *see also, e.g.*, 40 C.F.R. § 124.19(b)(1), (c)(1), (h) (imposing tighter deadlines and a presumption against oral argument in PSD and other new source appeals). As such, the Board will decide this matter as expeditiously as possible, in

accordance with the Board's regulations governing PSD appeals and the revised New Source Review Standing Order, while giving due consideration to the issues presented in this appeal.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: May 13, 2016

By: Kathie A. Stein for Mary Kay Lynch
Mary Kay Lynch
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I certify that copies of the forgoing **Order Requesting EPA's Office of General Counsel, Office of Air and Radiation, and Region 9 to File a Joint Brief** in the matter of *Arizona Public Service Co., Ocotillo Power Plant*, PSD Appeal No. 16-01, were sent to the following persons in the manner indicated:

By Facsimile & First Class U.S. Mail:

Travis Ritchie, Staff Attorney
Sierra Club Environmental Law Program
2101 Webster Street, Suite 1300
Oakland, CA 94612
tel: 415-977-5727
fax: 415-977-5793

Robert C. Swan
Deputy Maricopa County Attorney
Civil Services Division
222 North Central Avenue, Suite 1100
Phoenix, AZ 85004
tel: 602-506-8591
fax: 602-506-8567

Makram B. Jaber
Penny A. Shamblin
Andrew D. Knudsen
Hunton & Williams LLP
2200 Pennsylvania Avenue, N.W.
Washington, D.C. 20037
tel: 202-955-1500
fax: 202-778-2201

By Facsimile & Interoffice Mail:

Avi Garbow, General Counsel
U.S. EPA Office of General Counsel
Mail Code 2310A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
tel: 202-564-1917
fax: 202-501-1438

Lori Schmidt, Associate General Counsel
U.S. EPA Office of General Counsel
Mail Code 2344A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
tel: 202-564-1681
fax: 202-564-5603

Janet McCabe, Acting Assistant Adm'r
U.S. Environmental Protection Agency
Mail Code 6101A
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460
tel: 202-564-3206
fax: 202-501-0986

By Facsimile & EPA Pouch Mail:

Alexis Strauss, Acting Regional Adm'r
U.S. EPA Region 9
Mail Code ORA-1
75 Hawthorne Street
San Francisco, CA 94105
tel: 415-972-3572
fax: 415-947-3588

By Facsimile & EPA Pouch Mail:

Sylvia Quast, Regional Counsel
U.S. EPA Region 9
Mail Code ORC-1
75 Hawthorne Street
San Francisco, CA 94105
tel: 415-972-3936
fax: 415-947-3570

Dated: May 13, 2016

Annette Duncan
Secretary