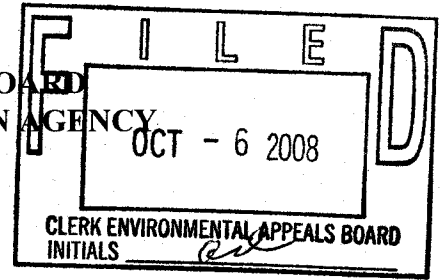


BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.



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 SCHEDULING RESPONSE DATE

On August 21, 2008, the Board issued an order in the above-captioned case granting the State of New Mexico¹ and Dine Care, Environmental Defense Fund, Grand Canyon Trust, Natural Resources Defense Council, San Juan Citizens Alliance, Sierra Club and WildEarth Guardians (collectively "NGO Petitioners")² a 30-day extension of time – until October 2, 2008 –

¹ On August 15, 2008, the State of New Mexico filed a petition raising numerous challenges to a PSD permit issued by EPA Region IX to Desert Rock Energy Company, LLC ("DREC") for the construction and operation of Desert Rock, a 1,500 megawatt coal-fired electric generating facility proposed to be located on Navajo Nation tribal land in New Mexico (PSD Permit AZP 04-01). *See generally* State of New Mexico's Petition for Review and Request for Oral Argument ("N.M. Pet."). Concurrently with its petition, the State filed a motion requesting a 45-day extension of time to file a supplemental brief in support of its petition. *See generally* New Mexico's Motion for Extension of Time to File Supplemental Brief in Support of Petition for Review and Request for Expedited Consideration.

² The NGO Petitioners filed a petition for review with the Board on August 14, 2008. *See generally* Petition for Review, Motion for Extension of Time to File Supplemental Brief, and Motion for Stay of Certain Issues Pending the Board's Decision in *In re Deseret Power Electric Cooperative* (PSD Appeal No. 07-03) ("NGO Pet."). As part of its petition, NGO Petitioners submitted several other motions, including a motion for a 45-day extension of time to file a supplemental brief. NGO Pet. at 10-14.

to file supplemental briefs in support of their petitions for review. *See* Order Granting Desert Rock's Motion to Participate, Granting a 30-Day Extension of Time, and Denying a Stay of Briefing on Certain Issues at 3. The Board also granted a motion from Desert Rock Energy Company, LLC ("DREC")³ requesting that it be allowed to participate. *Id.* at 3.

Both sets of petitioners filed their supplemental briefs on October 2, 2008. In the meantime, the Board also received two other petitions for review: one from the Center for Biological Diversity (CBD), *see* Petition for Review (received September 2, 2008), and one from Ms. Leslie Glustrom, *see* Petition for Review of Desert Rock Energy Air Permit PSD Permit AZP 04-01 (received September 2, 2008).

Typically, upon receipt of a petition, the Board sends a letter to the permit issuer requesting that the permit issuer review the petition and respond to petitioner's contentions. In this case, however, the Region is cognizant of at least two of the petitions and has already filed responses in the case. Accordingly, rather than sending a letter to the Region, the Board is issuing this order providing the Region and DREC thirty (30) days to respond to the petitions. Accordingly, the Board hereby ORDERS that any responses from the Region or DREC to the four petitions be filed no later than November 3, 2008. The Board also requests that the Region include with its response the relevant portions of the administrative record, together with a certified index of the entire administrative record. Finally, the Board directs the Clerk to send copies of the petitions received on September 2, 2008 – one from CBD and one from Ms. Leslie

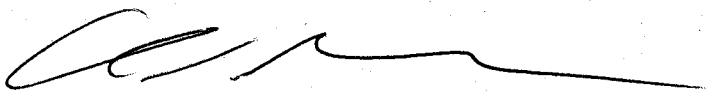
³ DREC filed its motion on August 20, 2008. DREC Motion to Participate and Opposition to Petitioners' Motions for Extension of Time to File a Supplemental Brief and for Stay of Certain Issues.

Glustrom – to the Region and DREC, the permittee.

So ordered.

Dated: 10/6/08

ENVIRONMENTAL APPEALS BOARD

By: 

Edward E. Reich
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Order Scheduling Response Date 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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Dated: OCT -6 2008



Annette Duncan
Secretary