

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

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In re:	)	
	)	
Russell City Energy Center	)	PSD Appeal Nos. 10-08, 10-09 & 10-10
	)	
PSD Permit No. 15487	)	
	)	

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**RUSSELL CITY ENERGY COMPANY, LLC’S  
MOTION FOR LEAVE TO RESPOND TO PETITIONS FOR REVIEW**

In accordance with Environmental Appeals Board Practice Manual section III.D.4, Permittee Russell City Energy Company, LLC (“RCEC”) hereby moves for leave to respond to each of the above-captioned petitions filed with the Environmental Appeals Board (“Board”) between April 1, 2010 and April 6, 2010. These three petitions for review (PSD Appeal Nos. 10-08, 10-09 and 10-10) concern the decision of the Bay Area Air Quality Management District (the “Air District”) to issue a Prevention of Significant Deterioration (“PSD”) permit to RCEC to construct a new natural gas-fired combined-cycle power plant in Hayward, California.

Seven other petitions were previously filed with the Board between March 22, 2010 and March 30, 2010 concerning the Air District’s issuance of the PSD permit (PSD Appeal Nos. 10-01, 10-02, 10-03, 10-04, 10-05, 10-06, and 10-07). RCEC previously requested, and the Board granted, RCEC’s request to participate in the proceeding and to respond to these first seven petitions. *In re Russell City Energy Center, LLC*, PSD Appeal Nos. 10-01, 10-02, 10-03, 10-04, 10-05, 10-06 & 10-07 (EAB, Apr. 6, 2010) (Order Granting Motion to Participate). However, RCEC did not anticipate that three additional petitions for review would be filed concerning the Air District’s decision. As a consequence, RCEC had not previously requested that the Board grant leave for RCEC to file a response to the above-captioned petitions.

RCEC disagrees with the allegations in the petitions and opposes petitioners’ requests. As the permittee, RCEC has a direct interest in proceedings relating to its PSD permit. These

proceedings and their disposition may impair RCEC's ability to proceed with construction of the planned facility. Moreover, RCEC's response to the petitions will materially assist the Board in its decision-making by providing evidence and argument directly relevant to the petitions.

RCEC's intervention will not delay the Board's ultimate resolution of the matter. RCEC has a vital interest in ensuring that consideration of the petitions proceeds as expeditiously as possible and will follow the schedule set forth by the Board in its April 8, 2010 letter to the District. *See* Letter from Eurika Durr, Clerk of the Board, to Jack Broadbent, Officer (April 8, 2010).

For the foregoing reasons, RCEC respectfully requests that this Board grant RCEC leave to respond to each of the above-captioned petitions for review.

Respectfully submitted,

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Dated: April 9, 2010

## CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of April, 2010, copies of the foregoing Russell City Energy Company, LLC's Motion for Leave to Respond to Petitions For Review were served via first-class U.S. mail, postage prepaid, to:

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