

**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

IN RE:)

PIO PICO ENERGY CENTER, LLC)

PSD Permit No. SD 11-01)

PSD Appeal Nos. 12-04, 12-05 & 12-06

NOTICE OF SUPPLEMENTAL INFORMATION

Pio Pico Energy Center, LLC (“Pio Pico”) hereby submits this notice of supplemental information to inform the Environmental Appeals Board of a recent factual development. Mr. Rob Simpson’s petition discussed a proposed decision by the California Public Utilities Commission (“CPUC”) to disapprove an application by San Diego Gas & Electric Company (“SDG&E”) for authority to enter into a Purchase Power Tolling Agreement with Pio Pico. See Petition for Review, Dkt. No. 2 (Dec. 19, 2012) at 4-7. Both Pio Pico and EPA Region IX responded to this issue in their responses to the petitions for review. See Brief of Intervenor Pio Pico Energy Center, LLC in Response to the Petitions for Review, Dkt No. 13 (Feb. 6, 2013) at 26-29; EPA Region 9’s Response to Petitions for Review, Dkt No. 11 (Feb. 6, 2013) at 31-33.

On March 21, 2013, the CPUC disapproved SDG&E’s application. A copy of the decision is attached. Pio Pico is now in the process of conferring with SDG&E to consider available options. Pio Pico does not need a PPTA to begin construction and operation of the Pio Pico Energy Center, as it may be operated as a merchant plant. Pio Pico does not believe that the CPUC decision impacts the issues pending before the Board or that supplemental briefing on the CPUC decision is necessary as further briefing will only result in unnecessary delay and risk deferring a decision by the Board beyond the one year statutory deadline within the Clean Air Act. 42 U.S.C. § 7475(c).

DATED: March 22, 2013

Respectfully submitted,

/s/ James R. Wedeking

David T. Buente, Jr.
Roger R. Martella, Jr.
James R. Wedeking
SIDLEY AUSTIN, LLP
1501 K Street, N.W.
Washington, D.C. 20005
Phone: (202) 736-8000
Facsimile: (202) 736-8711

Counsel for Pio Pico Energy Center, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of March 2013, copies of the foregoing Notice of Supplemental Information were served by First Class mail to the following:

Robert Simpson
27126 Grandview Avenue
Hayward, CA 94542

Johannes Hubert Epke
1108 Fifth Avenue, Suite 202
San Rafael, CA 94901

David C. Bender
MCGILLIVRAY WESTERBERG & BENDER, LLC
211 S. Paterson Street, Suite 320
Madison, WI 53703

Joanne Spalding
Travis Ritchie
Sierra Club Environmental Law Program
85 Second Street
San Francisco, CA 94105

Julie Walters
U.S. EPA, Region 9
75 Hawthorne Street
Mail Code: ORC-2
San Francisco, CA 94105

/s/ James R. Wedeking