

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

**In the Matter of Hess Newark Energy Center  
Prevention of Significant Deterioration and  
New Source Review Preconstruction Permit  
Issued by the New Jersey Department of  
Environmental Protection**

**Appeal No. PSD 12-02  
Permit Activity No. BOP110001  
Program Interest ID: 08857**

**MOTION FOR LEAVE TO INTERVENE**

Pursuant to 40 C.F.R. Part 124 and Section III.D of the Environmental Appeals Board Practice Manual, Hess Newark Energy Center (“Hess NEC”) moves for leave to intervene in this proceeding and to respond to the Petition for Review filed by the Ironbound Community Corporation and the New Jersey Environmental Justice Alliance (collectively, “Petitioners”).

Hess NEC is the permittee for Permit No. BOP110001 (“Permit”). For purposes of this proceeding, the Permit is a Preconstruction Permit and PSD Approval issued by the New Jersey Department of Environmental Protection (“NJDEP”) on September 13, 2012, for construction and operation of a natural-gas-powered electrical generating unit in Essex County, New Jersey. Hess NEC has invested and will invest substantial resources in obtaining the Permit and in the construction of this unit. As the permittee, Hess NEC has a tangible interest in the subject matter of this Petition for Review and is a real party in interest. Therefore, Hess NEC requests that the Board grant it leave to intervene and to participate in all aspects of this proceeding. Hess NEC’s intervention will not delay resolution of the Petition; rather, this intervention should expedite the Board’s consideration of this matter.

The Board has recognized that permittees have a significant interest in defending challenged permits, and has consistently held that it is appropriate to allow permittees to participate in appeal proceedings and to file responses to petitions for review. *See, e.g., In re ConocoPhillips Co.*, PSD Appeal No. 07-02, slip op. at 10 (EAB, June 2, 2008); *In re Christian Cnty. Generation, LLC*, PSD Appeal No. 07-01, slip op. at 10 (EAB, Jan. 28, 2008); *In re Newmont Nev. Energy Invs., LLC, TS Power Plant*, 12 E.A.D. 429, 437 (EAB 2005). The Board should apply this principle in this proceeding.

For the reasons discussed above, Hess NEC requests leave to intervene and for permission to file a response to the Petition for Review. Notice of the filing of this Motion for Leave to Intervene is being served on all parties identified in the accompanying certificate of service.

DATE: October 24, 2012

Respectfully submitted,

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/s/  
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