

Attached is the form I referenced.

From: Alexander Crockett
Sent: Wednesday, December 31, 2008 2:44 PM
To: 'rob@redwoodrob.com'
Subject: RE: Public Records Act request re Russell City Energy Center

Mr. Simpson:

Attached is the public records request form you submitted when you were here on September 11. It clearly requests "documents subsequent to EPA Remand". This was the request we have been working to fulfill. The form also has information about obtaining photocopies and has a box to check to authorize making copies of the records up front, which you did not check.

In responding to this request, we first provided responsive documents from Weyman Lee's main file for the project, on September 18. We started with Mr. Lee's main file because it was easily reviewable and was the most likely place that documents of interest to you would be found. We pulled the responsive documents from the file, and since there were relatively few we decided just to copy them for you without charge as a courtesy so you could take them home and review them at your leisure. We read your request as asking for all documents that the District may have, however, not just documents in Mr. Lee's main file. We therefore had to do an exhaustive search of all files throughout the District, including emails, computer files, and paper files in other locations to ensure that we identified all responsive documents. Performing that search took a considerable amount of time and effort, and that is why our complete response was not finished until this month. In addition, the documents we have identified are much more voluminous than those we initially identified in Mr. Lee's main file, and will take some staff time and District resources to copy. We are therefore not prepared to waive the copying charges for these additional documents, which is why we needed your approval to pay for the copying costs before providing copies.

It now appears that you would also like to see additional records beyond those we have identified in response to the attached request. Please state in writing exactly what documents you would like to review, and we will make them available for you. You attached a number of emails to your message below, and it will avoid confusion and allow us to respond most efficiently if you would state exactly what you would like us to provide instead of referring to earlier communications with the District, some of which are ambiguous and/or conflicting.

Also, please keep in mind that we have a box full of documents that District staff relied on in publishing the proposed amended PSD Permit and associated Statement of Basis, which the District has made available for public review during the comment period. Those materials are available for inspection during business hours in the District's Public Information & Outreach

division, on the 5th floor of the District's headquarters, and you will not need to make a public records request to view them. Those documents contain a great deal of information about the proposed PSD permit action the District is proposing to take, and would be a good place to start in learning more about the proposed action. You may, of course, review any relevant public records regarding the project beyond what the District has already compiled for public review (upon written request).

Finally, to fulfill your request for copies, I will have copies made of the documents we have pulled together in response to the attached request and will have them mailed to you. I will use the 27126 Grandview Avenue address listed on the attached form, unless you direct otherwise. I will also have you invoiced for the costs of providing copies at \$0.10 per page.

Sandy Crockett

Alexander G. Crockett, Esq.
Assistant Counsel
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
Phone: (415) 749-4732
Fax: (415) 749-5103
www.baaqmd.gov

From: rob@redwoodrob.com [mailto:rob@redwoodrob.com]
Sent: Tuesday, December 30, 2008 8:41 PM
To: Alexander Crockett
Subject: Public Records Act request re Russell City Energy Center

I recall no form or mention of 10 cents a page interfering with my request in this nearly 4 months of trying to obtain "public records" in fact the on Thu, September 18, 2008 at 10:55 am public records stated. "Since there are very few documents since remand, we are not charging you for the copies. I am willing to pay for copies. The following is some of the correspondence seeking records.

I also see no difference between my original Sept 11 request and multiple subsequent requests

"I would like to come at 1pm today to view the Russell City Energy Center file, I would like to view the entries from this year." (Sept 11)

It has now been over 100 days and multiple requests in writing and by telephone to obtain the records without satisfaction. I do not need documents that I have filed or the EAB published.

Other than that I would still like the records to effectively participate in this psd permit process.

Regarding Gateway I found the engineering analysis but no statement of basis or fact sheet. Please provide them also if they have been completed.

Rob Simpson

----- Original Message -----

Subject: RE: record request

From: "Public Records" <PublicRecords@baaqmd.gov>

Date: Mon, December 22, 2008 10:59 am

To: <rob@redwoodrob.com>

subject: RE: record request

From:

"Public Records"

To

<PublicRecords@baaqmd.gov> :<rob@redwoodrob.com>

>

Good morning, I just left you a voicemail message. Copies will not be provided for you. I will have the files available for you and you can come in a make copies of whatever records you wish to make. When you say all records, do you also want to review any hearing board files? If so, please let me know so I can get those as well so you can make any copies you wish.

This week is not a good week. We are closed Wednesday at 1:00 and we will be closed Thursday and Friday. Please let me know when next week you would like to come in. Since you are asking to review everything for this company in 2008, you should book a morning time so you will be able to review everything in a timely manner.

Any questions, please give me a call. Thanks

Thank you,

Public Records Staff

In house: Public Records

publicrecords@baaqmd.gov

Rochelle Henderson,

Public Records Coordinator



From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]
Sent: Wednesday, December 17, 2008 3:21 PM
To: Public Records
Subject: record request

Hi,

Please provide all Public records for the Russell City Energy Center (from all files including emails) created in 2008. I would like to pick up printed copies when they are available.

Thank you,

Rob Simpson
27126 Grandview avenue
Hayward CA. 94542

----- Original Message -----

Subject: Russell City Energy Center record request
From: rob@redwoodrob.com
Date: Wed, November 19, 2008 10:01 am
To: "Brian Bateman" <BBateman@baaqmd.gov>
Cc: "Public Records" <PublicRecords@baaqmd.gov>

As you can see I have been trying to get Russell city records since Sept 11 without satisfaction. I will stop by today after the board of directors meeting to review the Russell city Energy Center file.

Rob Simpson
510-909-1800

----- Original Message -----

Subject: RE: Russell City Energy Center record request
From: "Brian Bateman" <BBateman@baaqmd.gov>

Date: Wed, November 05, 2008 5:29 pm
To: <rob@redwoodrob.com>

Mr. Simpson:

The PDOC and FDOC are related to the CEC licensing, which has been completed. In this context, the documents are "valid". The applicant cannot commence construction, however, until a valid PSD permit is issued. We are preparing a "Statement of Basis" for the reissue of the draft PSD permit. This will be similar in nature to the PDOC, but will more specifically focus on federal PSD permit requirements. We will post this document on our website when it is finalized and inform you when that occurs.

We are currently checking to confirm that you have received all disclosable public records associated the public records request that you filed.

Sincerely,

Brian Bateman
Director of Engineering
Bay Area Air Quality Management District
(415) 749-4653

-----Original Message-----

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]
Sent: Wednesday, November 05, 2008 4:05 PM
To: Brian Bateman
Subject: Russell City Energy Center record request

Dear Brian Bateman and Veronica Farr,

Does this mean that I have received all public documents since the Remand?
Can you tell me if the present PDOC or FDOC are valid documents?
Rob Simpson

----- Original Message -----

Subject: RE: Russell City Energy Center record request
From: "Brian Bateman" <BBateman@baaqmd.gov>
Date: Tue, November 04, 2008 5:57 pm
To: <rob@redwoodrob.com>

Mr. Simpson:

As I indicated in my e-mail, the District is working on responding to the EAB's order by renouncing the draft permit for further comment. We will be sending the notice to you and other interested members of the public once we have completed the process. As for the District's engineering analysis, we will make that available to the public once it is finalized. This document will be posted on the District's website, and made available in hardcopy format upon request.

Let me know if you have any further questions.

Sincerely,

Brian Bateman
Director of Engineering
Bay Area Air Quality Management District
(415) 749-4653

-----Original Message-----

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]
Sent: Tuesday, November 04, 2008 9:48 AM
To: Public Records; Brian Bateman
Subject: Russell City Energy Center record request

Mr Batemen,

Thank you for the update. I have been trying to find out what is going on with RCEC. My public records requests have revealed extremely scant documentation. (about 10-15 pages) I have been trying to understand the decision making process but found nothing that identified the Districts strategy for dealing with the remand. I would like to see any engineering analysis and all documents associated with the project since the Remand.

Thank You,

Rob Simpson

Mr. Simpson:

I am writing to provide you with a status update on the Air District's efforts to "renotify" the draft PSD permit for the proposed Russell City Energy Center. District staff has been working on this project in order to conform to the remand order issued by the Environmental Appeals Board on July 29, 2008.

The District has completed the noticing requirements that focus on compiling and maintaining a list of persons generally interested in receiving notice of draft PSD permits. The project-specific renoticing for the Russell City Energy Center draft PSD permit is expected to be initiated in approximately two weeks.

Please let me know if you have any questions, or would like to discuss.

Brian Bateman
Director of Engineering
Bay Area Air Quality Management District

 (415) 749-4653 

----- Original Message -----

Subject: RE: Russell City Energy Center record request
From: "Public Records" <PublicRecords@baaqmd.gov>
Date: Tue, October 14, 2008 3:58 pm

To: <rob@redwoodrob.com>

Hello Rob,

The District has not identified any such document to date in its review of its public records related to the Russell Project. As you know, the District has already provided all documents responsive to your request from the District's main file on this project. The District is looking further to ensure that we have reviewed all locations where a responsive public record could potentially be located, including in the email accounts and computers of individual staff members, among other areas. The District will provide any documents responsive to your request that are identified through this further search.

Thank you,

Public Records Staff

In house: Public Records

publicrecords@baaqmd.gov

Rochelle Henderson,

Public Records Coordinator

415-749-4784

Veronica Farr

Public Records Assistant

415-749-4977

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]

Sent: Thursday, October 09, 2008 2:21 PM

To: rob@redwoodrob.com

Cc: Public Records

Subject: Russell City Energy Center record request

Hi Rochelle,

What I am still missing (that i know of) is some directive. There must have been some decision made on the basis of the Remand order from the EPA to start the permitting action again, with some sort of plan that instructed staff to restart analysis. I have not seen that.

Rob

----- Original Message -----

Subject: thanks Russell City Energy Center record request

From: rob@redwoodrob.com

Date: Tue, October 07, 2008 4:04 pm

To: "Public Records" <PublicRecords@baaqmd.gov>

Wow Rochelle,

I am impressed thank you very much.

Rob

----- Original Message -----

Subject: RE: Russell City Energy Center record request

From: "Public Records" <PublicRecords@baaqmd.gov>

Date: Tue, October 07, 2008 3:26 pm

To: <rob@redwoodrob.com>

Hello Rob,

As I am receiving information, I will be forwarding it to you. Please find emails from Glenn Long. A general email was sent to various departments asking any employees that if they have any emails that relates to this request to please contact Public Records.

As I go through the emails, they will be forwarded to you. If you have any other concerns, please let me know.

Thanks

Thank you,

Public Records Staff

In house: Public Records

publicrecords@baaqmd.gov

Rochelle Henderson,

Public Records Coordinator

415-749-4784

Veronica Farr

Public Records Assistant

415-749-4977

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]
Sent: Thursday, September 25, 2008 5:01 PM
To: Public Records
Subject: Russell City Energy Center record request

Hello,

I am not sure the reason that it required that I be there between 10:30 and 12 since the documents were left with the guard. I received a very small number of documents. It would appear that i did not receive all documents. I would like the 9 pages referenced below and all documents from this year relating to the Russell City Energy Center from any district file. Please include records of any fees paid by the applicant and any expected fees pursuant to the licensing or operation of the facility and the basis for such fees.

Thank You

Rob Simpson

----- Original Message -----

Subject: RE: Russell City Energy Center Appointment time 1030 - 1200
From: "Public Records" <PublicRecords@baaqmd.gov>
Date: Thu, September 18, 2008 10:55 am
To: <rob@redwoodrob.com>

Mr. Simpson,

We have reviewed the primary files (Weyman Lee's project files) and have made copies of those since remand. The copies will be left with the guard at the entrance. Since there are very few documents since remand, we are not charging you for the copies. We are withholding 9 pages that are attorney-client communications, attorney work product, and/or preliminary staff notes/deliberative documents and are exempt from disclosure under Government Code sections 6254(a), 6254(k) or 6255.

We are continuing to look for any other documents and will let you know if we find any.

Thank you,

Public Records Staff

In house: Public Records

publicrecords@baaqmd.gov

Rochelle Henderson,

Public Records Coordinator

415-749-4784

Veronica Farr

Public Records Assistant

415-749-4977

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]
Sent: Thursday, September 18, 2008 10:31 AM
To: Public Records
Cc: William Guy; Alexander Crockett
Subject: Russell City Energy Center Appointment time 1030 - 1200

I will be there before 12 noon.

Rob Simpson
510-909-8793

----- Original Message -----

Subject: [SPAM] RE: Russell City Energy Center Appointment time 1030 - 1200

From: "Public Records" <PublicRecords@baaqmd.gov>

Date: Wed, September 17, 2008 3:32 pm

To: <rob@redwoodrob.com>

Cc: "William Guy" <wguy@baaqmd.gov>, "Alexander Crockett" <ACrockett@baaqmd.gov>

Good day Mr. Simpson,

I left a phone message for you in regards to your appointment. We have a window of 10:30 AM - 12:00 noon. Since you are on a strict timeline you may come in tomorrow to review Application 15487 for Russell City Energy Center. That file has been reviewed and you may make copies of that file. We are trying to accommodate your request.

Please respond back to this email to let Mr. Guy or Mr. Crockett know that you will be coming tomorrow. Please let the guard know you need to see Mr. Guy or Mr. Crockett.

If you can not make the appointment time, please email and **respond to all** if there are any changes. Again, please respond to everyone on this email. Thank you and if you have any additional questions or concerns, please feel free to call or email me.

Thank you,

Public Records Staff

In house: Public Records

publicrecords@baaqmd.gov

Rochelle Henderson,

Public Records Coordinator

415-749-4784

Veronica Farr

Public Records Assistant

415-749-4977

From: rob@redwoodrob.com [<mailto:rob@redwoodrob.com>]

Sent: Thursday, September 11, 2008 11:43 AM

To: Public Records

Subject: Russell City Energy Center 1pm

Hello,

I would like to come at 1pm today to view the Russell City Energy Center file, I would like to view the entries from this year.

Thank you

Rob Simpson

510-909-8793

----- Original Message -----

Subject: RE: Public Records Act request re Russell City Energy Center

From: "Alexander Crockett" <ACrockett@baaqmd.gov>

Date: Tue, December 30, 2008 4:35 pm

To: <rob@redwoodrob.com>

Mr. Simpson:

We are able to provide copies of the documents, at a cost of \$0.10 per page for copying and mailing. I reviewed the September 11, 2008, Public Records Request Form in which you requested these documents and you did not check the box agreeing to reimburse the District for the copying costs. Without such agreement, we cannot process the copy request. If you would like us to provide copies of the documents, please indicate your agreement to reimburse the District for the copying and mailing costs. (An indication of your agreement to pay in an email reply would be sufficient – just respond to this message and state that you agree to pay the \$0.10 per page copying charge.) If you do not want to agree to pay the copying costs, the original documents are available for you to review in person at District headquarters.

Also, Ms. Henderson told me that in subsequent correspondence between you and her you alluded to a desire to see documents from the whole of 2008 relating to the Russell City project. Such a request would be broader in scope than your September 11, 2008, request that we have just finished responding to. In that request you sought “documents subsequent to the EPA remand”, which we interpreted as documents subsequent to the July 29, 2008 remand order from EPA’s Environmental Appeals Board. A request for documents from the whole of 2008 would require us to re-do our entire records search, at a significant cost to the

District in time and resources, since our initial search was limited to the time period you originally specified. It would be a better use of public resources, and would allow us to serve you more quickly and efficiently, if you would consider exactly what documents you have already received (including those that we have recently made available referenced in my 12/18/08 email) and what additional documents, if any, it may be useful for you to review further. If there are additional documents you would like to have access to beyond what is covered by your September 11, 2008, request and the other documents the District has provided you, please submit a formal request in writing specifying exactly which records (or categories of records) you would like. The District will respond to any such request according to its Public Records Act procedures.

Finally, in response to your question regarding the Gateway Generating Station, the engineering evaluation and statement of basis for the proposed permit amendments for that project is available at http://www.baaqmd.gov/pmt/public_notices/2008/17182/index.htm.

Sandy Crockett

From: rob@redwoodrob.com [mailto:rob@redwoodrob.com]
Sent: Tuesday, December 30, 2008 12:14 PM
To: Alexander Crockett
Subject: Public Records Act request re Russell City Energy Center

Thank you,

Can you also send me the statement of basis for the Gateway generating station. I could not find it on your website.

Rob Simpson

----- Original Message -----

Subject: RE: Public Records Act request re Russell City Energy Center
From: "Alexander Crockett" <ACrockett@baaqmd.gov>
Date: Tue, December 30, 2008 10:04 am
To: <rob@redwoodrob.com>

I have a call in to try to find out whether copies can be mailed. I may have been misinformed about our public records procedures.

I am also gathering some information to respond to your other questions. I'll reply by email when I have all of the answers.

Sandy Crockett

From: rob@redwoodrob.com [mailto:rob@redwoodrob.com]
Sent: Saturday, December 27, 2008 5:43 PM
To: Alexander Crockett
Cc: ANDREW III; VACATIONPOMBO@aol.com
Subject: Public Records Act request re Russell City Energy Center

Mr Crockett,

I would like the documents copied and sent to sent to me but public records state "[Copies will not be provided for you.](#)" How do I get copies sent to me?

I would like to be sure to get any "official filings in government agency proceedings regarding this facility" with regard to the CEC.

Have you become the lead agency since it is more than 180 days from the CEC decision?

Is there an Ambient Air Quality Impact Report or table denoting Background, project impact and limiting standards?

Are there BACT Limits for Startup and Shutdown?

Does the recent decision affect this permit?
United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT
Argued September 12, 2008 Decided December 19, 2008
No. 02-1135
http://www.earthjustice.org/library/legal_docs/decision.pdf

Where is the draft permit? is it a part of the basis?

Are there NAAQS and Class II Increment Compliance Results available?

I noticed NO2 impacts are different on page 92 260 $\mu\text{g}/\text{m}^3$ and page 116 370 $\mu\text{g}/\text{m}^3$. Can someone help me understand the basis for the difference and which if any is correct?

One of the things that I talked to Mr Lee about is that many of the tables are incomplete. Are there complete tables available?

It is my understanding from the Calpine representative that some of the equipment may have been used in other facilities. Do you know if the planned equipment is new or used? Are the emission calculations based upon new or used equipment?

Is there a new application form RCEC? or when was the application that this is in response to?

Can I have Background impact statistics for Oakland and hunters point.

When will 2008 background statistics be available?

What effect does the new PM designation have on this action?

Thank You,

Rob Simpson

(a) Any public agency which is a responsible agency for a development project that has been approved by the lead agency shall approve or disapprove the development project within whichever of the following periods of time is longer:

(1) Within 180 days from the date on which the lead agency has approved the project.

(2) Within 180 days of the date on which the completed application for the development project has been received and accepted as complete by that responsible agency.

(b) At the time a decision by a lead agency to disapprove a development project becomes final, applications for that project which are filed with responsible agencies shall be deemed withdrawn. Government Code Section 65952

15052. Shift in Lead Agency Designation

(a) Where a Responsible Agency is called on to grant an approval for a project subject to CEQA for which another public agency was the appropriate Lead Agency, the Responsible Agency shall assume the role of the Lead Agency when any of the following conditions occur:

(1) The Lead Agency did not prepare any environmental documents for the project, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

(2) The Lead Agency prepared environmental documents for the project, but the following conditions occur:

(A) A subsequent EIR is required pursuant to Section 15162,

(B) The Lead Agency has granted a final approval for the project, and

(C) The statute of limitations for challenging the Lead Agency's action under CEQA has expired.

(3) The Lead Agency prepared inadequate environmental documents without consulting with the Responsible Agency as required by Sections 15072 or 15082, and the statute of limitations has expired for a challenge to the action of the appropriate Lead Agency.

(b) When a Responsible Agency assumes the duties of a Lead Agency under this section, the time limits applicable to a Lead Agency shall apply to the actions of the agency assuming the Lead Agency duties.

Note: Authority cited: Section 21083, Public Resources Code; Reference: Section 21165, Public Resources Code.

Good morning, I just left you a voicemail message. Copies will not be provided for you. I will have the files available for you and you can come in a make copies of whatever records you wish to make. When you say all records, do you also want to review any hearing board files? If so, please let me know so I can get those as well so you can make any copies you wish.

This week is not a good week. We are closed Wednesday at 1:00 and we will be closed Thursday and Friday. Please let me know when next week you would like to come in. Since you are asking to review everything for

this company in 2008, you should book a morning time so you will be able to review everything in a timely manner.

Any questions, please give me a call. Thanks

Thank you,
Public Records Staff
In house: Public Records
publicrecords@baaqmd.gov

Rochelle Henderson,

Public Records Coordinator



----- Original Message -----

Subject: [SPAM] Public Records Act request re Russell City Energy Center

From: "Alexander Crockett" <ACrockett@baaqmd.gov>

Date: Thu, December 18, 2008 6:54 pm

To: <rob@redwoodrob.com>

Cc: "Public Records" <PublicRecords@baaqmd.gov>

Mr. Simpson:

The Bay Area Air Quality Management District has compiled the additional documents it has in its files that are responsive to your request for public records relating to the Russell City Energy Center. The additional documents are available for review at District headquarters, 939 Ellis Street, San Francisco. Please email PublicRecords@baaqmd.gov to make arrangements for reviewing them or to have them copied and sent to you. Please note that for several email messages, the attachments to the email have not been printed out in full. In most cases, this is because the attachments are voluminous, are publicly available elsewhere (including on the web) and are documents that you probably already have – for example, official filings in government agency proceedings regarding this facility. To save paper, these were not printed out in full. If any of these attachments are documents you do not already have, we would of course be happy to provide them to you in full. Please also note that we are withholding a number of documents that are attorney-client communications, attorney work product, and/or preliminary staff notes/deliberative documents that are exempt from disclosure under Government Code sections 6254(a), 6254(k), or 6255.

Thank you for your patience with this request.

Sandy Crockett

Alexander G. Crockett, Esq.

Assistant Counsel

Bay Area Air Quality Management District

939 Ellis Street

San Francisco, CA 94109

Phone: (415) 749-4732

Fax: (415) 749-5103

www.baaqmd.gov