

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

In re: Russell City Energy Center)	PSD Appeal Nos. 10-05 (CARE, Rob Simpson, and Robert Sarvey, Petitioners)
)	
PSD Permit No. 15487)	[Related to PSD Appeal Nos. 10-01, 10-02, 10-03, 10-04, 10-06, 10-07, 10-08, 10-09 and 10-10.]
)	

**DECLARATION OF BARRY G. YOUNG
IN SUPPORT OF
RESPONSE TO PETITION FOR REVIEW 10-05**

I, Barry G. Young, hereby declare as follows.

1. I am the Manager of the Permit Evaluation Section of the Bay Area Air Quality Management District (“District”). Under my direction, District staff review permit applications for stationary sources in the San Francisco Bay Area, including, but not limited to, the permitting of power plants and the review of Prevention of Significant Deterioration (“PSD”) permits.

2. For the Russell City Energy Center (“RCEC”) in Hayward, the District initially issued a PSD permit for the facility on November 1, 2007. This permit was issued under Application No. 15487, which was submitted on November 28, 2006, and deemed complete on April 7, 2007, according to the District’s permit application database.

3. After the District issued this permit, the U.S. Environmental Protection Agency’s Environmental Appeals Board (“EAB”) subsequently determined that the District should provide notice of the permit to additional parties and provide them with an opportunity to comment. The District therefore re-proposed to issue the PSD permit, published a draft PSD permit along with a Statement of Basis explaining the District’s proposal, and provided the public with a further opportunity to comment on the draft permit. I assigned a supervising air quality engineer, senior

air quality engineer, and air quality engineer to evaluate the PSD permit application for the RCEC.

4. In connection with the RCEC PSD permit re-noticing, I ensured that all of the activities were completed per the February 4, 2008 Amended PSD Delegation Agreement between EPA Region 9 and the District and Title 40 of the Code of Federal Regulations, Part 124 (“40 CFR Part 124”), which contains the federal requirements for public notice of permit actions and public comment period.

5. I have read and understand that 40 CFR Section 124.10(c) requires that public notice of this activity shall be given by the following methods:

- (1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits);
 - (i) The applicant (except for NPDES and 404 general permits when there is no applicant);
 - (ii) Any other agency which the Director knows has issued or is required to issue a RCRA, UIC, PSD (or other permit under the Clean Air Act), NPDES, 404, sludge management permit, or ocean dumping permit under the Marine Research Protection and Sanctuaries Act for the same facility or activity (including EPA when the draft permit is prepared by the State);
 - (iii) Federal and State agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory Council on Historic Preservation, State Historic Preservation Officers, including any affected States (Indian Tribes). (For purposes of this paragraph, and in the context of the Underground Injection Control Program only, the term State includes Indian Tribes treated as States.)
 - (iv) For NPDES and 404 permits only, any State agency responsible for plan development under CWA section 208(b)(2), 208(b)(4) or 303(e) and the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;
 - (v) For NPDES permits only, any user identified in the permit application of a privately owned treatment works;
 - (vi) For 404 permits only, any reasonably ascertainable owner of property adjacent to the regulated facility or activity and the Regional Director of the Federal Aviation Administration if the discharge involves the construction of structures which may affect aircraft operations or for purposes associated with seaplane operations;
 - (vii) For PSD permits only, affected State and local air pollution control agencies, the chief executives of the city and county where the major stationary source or major modification would be located, any comprehensive regional land use planning agency and any State, Federal Land Manager, or Indian Governing Body whose lands may be affected by emissions from the regulated activity;
 - (viii) For Class I injection well UIC permits only, state and local oil and gas regulatory agencies and state agencies regulating mineral exploration and recovery;

- (ix) Persons on a mailing list developed by:
 - (A) Including those who request in writing to be on the list;
 - (B) Soliciting persons for “area lists” from participants in past permit proceedings in that area; and
 - (C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as Regional and State funded newsletters, environmental bulletins, or State law journals. (The Director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Director may delete from the list the name of any person who fails to respond to such a request.)
- (x) (A) To any unit of local government having jurisdiction over the area where the facility is proposed to be located; and
 - (B) to each State agency having any authority under State law with respect to the construction or operation of such facility.
- (2) (i) For major permits, NPDES and 404 general permits, and permits that include sewage sludge land application plans under 40 CFR 501.15(a)(2)(ix), publication of a notice in a daily or weekly newspaper within the area affected by the facility or activity; and for EPA-issued NPDES general permits, in the Federal Register;

Note: The Director is encouraged to provide as much notice as possible of the NPDES or Section 404 draft general permit to the facilities or activities to be covered by the general permit.
- (ii) For all RCRA permits, publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.
- (3) When the program is being administered by an approved State, in a manner constituting legal notice to the public under State law; and
- (4) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

Creation of a General PSD Interested Parties Mailing List

6. In accordance with the requirements of 40 CFR Section 124.10(c)(1)(ix), I supervised the publication of a General PSD Interested Parties Mailing List Notice (“General PSD Notice”). Under my direction, a supervising air quality engineer and secretary had published a General PSD Notice in the following 18 periodicals/newspapers, which include the major newspapers in each of the nine counties in the District’s jurisdiction, the two major legal newspapers of the Bay Area (the Daily Journal and The Recorder), and the newsletters of the local chapters of the Sierra Club, others:

San Francisco Chronicle
 The Press Democrat (Santa Rosa)
 Marin Independent Journal

Napa Valley Register
San Jose Mercury News
Contra Costa Times
West County Times
San Mateo County Times
Tri-Valley Herald (Alameda/Livermore)
Vacaville Reporter
The Argus (Fremont)
Benicia Herald
Oakland Tribune
Daily Review (Hayward)
San Francisco Daily Journal
The Recorder
Sierra Club - Redwood Needles
Sierra Club - Loma Prieta

7. The General PSD Notice was also posted on the District website (www.baaqmd.gov). The General PSD Notice solicited that any person who would like to receive written notice of such PSD notice events may contact the District to be included on the mailing list for such notices by writing or emailing. Under my direction, a secretary compiled and maintained all such requests to be added to the General PSD Interested Parties Mailing List. The secretary received 19 responses to the notice. The notice resulted in one person being added to the General PSD Interested Parties list, since the others were already on the list. Under my direction, the secretary created a dedicated common directory in which to save the interested parties mailing list. Any requests to the District staff to be added to the list were completed by the secretary and supervising air quality engineer.

8. I also worked with a District Public Information Officer to issue a Press Release for the General PSD Notice. The Press Release was faxed out to numerous newspapers and other news outlets and was posted on the District website (www.baaqmd.gov). Attached as **Exhibit 1** is a true and correct copy of the General PSD Permit Notice that was published in the periodicals/newspapers above and the Press Release the District issues.

9. I assigned a supervising air quality engineer and secretary to create a comprehensive Interested Parties (Public) List to comply with the federal requirements in 40 CFR Subpart 124.10(c). Under my direction, these staff ensured that the Interested Parties

(Public) Mailing List contained the appropriate contact information. The Interested Parties

(Public) List includes the following:

- All parties listed in District records that have submitted comments on Title V, Major New Source Review (“NSR”) and/or PSD permits back to 1999.
- All parties listed in District records that have attended public meetings for proposed Title V, Major NSR and/or PSD permits back to 1999.
- California Energy Commission power plant siting mailing lists that the District had in its permitting files, which included the mailing lists for the 2007 amendment proceeding for the Russell City Energy Center, the Eastshore Energy Center, the Gateway Energy Center, and the Delta Energy Center.

In addition, under my direction, the supervising air quality engineer surveyed all of the engineers in the Engineering Division to identify any Title V, Major NSR, and/or PSD permit projects before 1999 that may have received public comments, as well as any other miscellaneous parties that any engineers were aware of who should be included on the list.

Creation of a Comprehensive Interested Agency Mailing List

10. Under my direction, a supervising air quality engineer and secretary created a Comprehensive Agency Mailing List in accordance with 40 CFR Subpart 124.10(c)(1)(ii), (iii), and (vii), which requires the District to send notices to numerous agencies. I read and ensured that the Interested Parties (Agency) Mailing List contains the required contacts. The Agency Mailing List includes, but is not limited to: local city, California, regional, and federal agencies, the Native American Heritage Commission, and the departments within these agencies that may have permit interest. Under my direction, the secretary created a dedicated common directory in which to save the agency mailing list.

Public Notice of December 2008 Draft Permit and Statement of Basis

11. Under my direction, a supervising engineer, a senior engineer, an engineer, and two secretaries completed the following project-specific activities in accordance with federal noticing requirement.

- 1) The writing of the PSD permit public notice.
- 2) The creation of comprehensive mailing lists for the project as described above to comply with federal noticing requirements (approximately 1,900 addresses).
- 3) The printing of mailing labels for each contact listed in the comprehensive mailing lists for the project.
- 4) Each of the mailing labels was affixed to an individual envelope.
- 5) Each notice was folded and a true and correct copy of the PSD Public Notice was placed into each envelope.
- 6) Posted the draft permit and Statement of Basis on the District website and on the “What’s New” section of the homepage, and emailed on the District listbot.
- 7) An email was sent to interested parties for whom the District had email addresses notifying them of the availability of the draft permit and Statement of Basis on the District website.
- 8) Each envelope contained a PSD Public Notice and was sealed and given to the District Administrative Division staff for mailing via the United States Post Office.
- 9) The District’s Community Outreach Manager, contacted additional interested parties of the start of this public comment period and availability of document using a flyer.
- 10) Mailed the PSD Public Notice, Statement of Basis, and a copy of the permit application to a list of 20 public agencies and adjacent air districts.
- 11) The publishing of the Corrected PSD permit public notice in The Hayward Daily Review and The Oakland Tribune.
- 12) The publishing of the PSD permit public notice in El Mensajero.

Attached as **Exhibit 2** is a true and correct copy of the PSD Public Notice. Note that this notice is a corrected version that lists the facility’s correct address. An earlier version of the notice that had been published had listed an incorrect address.

Availability Of Permitting Record Documents

12. In addition, when the PSD Public Notice was published, under my supervision copies of all of the permitting documents that District staff had relied on in preparing the draft PSD permit were collected and made available for review by interested members of the public. The documents were placed in a box and the box was placed in the offices of the District’s Communications and Outreach Office on the fifth floor of District headquarters in San Francisco, in the custody of a District public information officer. I was informed by the public information

officer that several members of the public came in to review the documents and make copies for their own use.

January 2009 Public Hearing and Public Comments

13. The District accepted public comments on the draft permit until February 6, 2009. This comment period was longer than the comment period that the District initially established in the PSD Public Notice because the District received requests from members of the public to extend the comment period, which the District agreed to do. The District also received a large number of written comments during this comment period.

14. The District also held a public hearing at Hayward City Hall in Hayward, CA, on January 21, 2008, to give interested members of the public a chance to testify and submit comments on the draft permit orally. A large number of people attended the hearing and submitted oral comments.

15. Under my direction, District staff published all of these comments on the District's website, and added all of the commenters to its mailing list (as well as speakers at the public hearing who provided contact information).

Public Notice of August 2009 Revised Draft Permit and Additional Statement of Basis

16. After receiving and considering public comments on the draft permit, the District published a revised draft PSD permit along with an Additional Statement of Basis. The District issued this revised draft permit on August 3, 2009.

17. Under my direction and supervision, District staff provided notice of the revised draft permit in the same manner as it had provided notice of the initial draft in December of 2008, using the same mailing lists (as updated to add names of additional members of the public who expressed interest in the permit since the initial notice). A true and correct copy of the notice of the revised draft permit is attached hereto as **Exhibit 3**.

18. Under my direction and supervision, District staff also added copies of new documentation that had been relied on in preparing the revised draft permit to the collection of

record documents that had been compiled for the first comment period. District staff placed these documents in file folders and placed the file folders in hanging folders in crates designed to accommodate the hanging folders. District staff also made an index of all of the documents, which was also made available for public review and published on the District's website. A true and correct copy of the index as published on the website is attached hereto as **Exhibit 4**. This method of organizing and presenting the documents was intended to make it easy for interested members of the public to access and review the documents. The documents were again made available in the District's Communications and Outreach Office.

Annual Update General PSD Mailing List

19. The District also updated its General PSD Interested Parties Mailing List by publishing in November and December 2009 a further notice of the list and of the opportunity for interested members of the public to be on it. The District will continue to publish the General PSD Notice annually to ensure that the Mailing List is kept up-to-date.

September 2009 Public Hearing and Public Comments

20. The District accepted public comments on the revised draft permit until September 16, 2009. The District also held a second public hearing at Hayward City Hall on September 2, 2009, to give interested members of the public a chance to testify and submit comments on the revised draft permit orally. A large number of people attended this second hearing submitted oral comments.

21. Under my direction, District staff published all of these further comments on the District's website, and added all of the commenters to its mailing list (as well as speakers at the public hearing who provided contact information).

Notice of Final Permit Issuance

22. The District issued the final PSD permit on February 3, 2010, and concurrently issued responses to all of the public comments it had received during both comment periods.

23. Under my direction and supervision, District staff mailed notice of the final permit issuance to all members of the public who had submitted comments on the draft permit

PROOF OF SERVICE

I, Vanessa Hodgson, declare as follows:

I am over the age of 18, not a party to this action, and employed in the City and County of San Francisco, California, at 939 Ellis Street, San Francisco, CA 94109.

On the date set forth below, I served this document, **Declaration of Barry G. Young**, by placing a copy of it in sealed envelopes, with First Class postage thereon fully paid, and depositing said envelopes in the United States Mail at San Francisco, California, addressed to the persons set forth below:

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