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Subject: RE: Public Records Act request re Russell City Energy Center
From: "Alexander Crockett" <ACrockett@baaqmd.gov>
Date: Thu, Jan 15, 2009 3:55 pm
To: <rob@redwoodrob.com>

Mr. Simpson:

I checked again on the status of the documents responsive to your September 11, 2007, Public Record Act request I referenced in the email you attached below. It seems that I was misinformed about their being mailed last week. Apparently, they were mailed out this week. You should receive them shortly, if you haven't already. I will look into the other questions you raised and see if I can provide some further answers.

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: Thursday, January 15, 2009 2:00 PM
To: Alexander Crockett
Subject: Public Records Act request re Russell City Energy Center

Mr. Crockett,

I have a couple more questions and a couple clarification requests that I interjected into your prior responses.

Has the Authority to construct been rescinded or is it still valid? Will the District be issuing a new ATC?

The CEC docket log shows no record of this proceeding have you notified the CEC of the present action? " Will this action be"considered a final Determination of whether the facility can be constructed or operated "?

The "fact Sheet" states:

The Air District is proposing to incorporate the changes that have been made to the
proposed project into the Federal PSD Permit that was initially issued in 2002, including
the new project site.

but the EAB stated:

RCEC originally 11 filed for certification by the CEC in early or mid-2001, and was initially certified by the CEC on Sept. 11, 2002, pursuant to the Warren-Alquist Act, see supra. During the initial CEC certification process, which also incorporated the District permitting, the District issued a PDOC/Draft PSD Permit to RCEC in November 2001. However, **the District did not proceed to issue a final PSD permit** because RCEC withdrew plans to construct the project in the spring of 2003. See Letter from Gerardo C. Rios, Chief, Permits Office, U.S. EPA Region 9, to Ryan Olah, Chief Endangered Species Division, U.S. Fish and Wildlife Service (Jun. 11, 2007). The amended CEC certification and PSD permitting were required because RCEC afterwards proposed relocating the project 1,500 feet to the north of its original location. See Final PSD Permit, Application No. 15487 ("Final Permit") at 3.
EAB remand footnote 11 page 13 (emphasis added)

Which one is correct? If the District did issue a PSD permit in 2002 please forward it to me.

Are the emission reduction Credits contemporaneous for federal purposes?

Is the ERC without information acceptable federally?
(Information for certificate #30 is not available)
SOB 115

The Public notice states:

The proposed Russell City Energy Center is a 600-megawatt natural gas fired combined-cycle power plant to be built by
Russell City Energy Company, LLC, (50 W. San Fernando Street, San Jose, CA 95113) an affiliate of Calpine Corporation.

Does Calpine have a partner? Is GE still a 35% partner? If so should this have been disclosed in the notice?

-------- Original Message --------
Subject: RE: Public Records Act request re Russell City Energy Center
From: "Alexander Crockett" <ACrockett@baaqmd.gov>
Date: Wed, January 07, 2009 5:28 pm
To: <rob@redwoodrob.com>

Mr. Simpson:

Below are the responses to your questions. For ease of reading, I've inserted each answer after each of your respective questions.

Also, we still haven't heard back from you regarding exactly what additional documents from 2008 you want us to make available for you to review, in addition to the documents responsive to the September 11, 2008, Public Records Act request you submitted for documents since the EAB's remand. We really need to know exactly what you want before we can start a records search. For example, do you want documents just from the Russell City file, or from all places within the District where records might be found? Please let us know exactly what universe of records you would like us to make available and we will start compiling them.

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?

Answer: The copies have been made and sent to you. I understand that they went out in today's mail.

I have received no documents.

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

Answer: Since you are quoting the language from my email below regarding email attachments that were not initially included in what we produced on December 18, I am presuming you are referring to those email attachments. I have included the attachments that are official filings in CEC proceedings with the copies being mailed to you.

I have received no documents.

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

Answer: There is no "lead agency" for the issuance of a Federal PSD Permit. "Lead

agency" is a concept from the California Environmental Quality Act ("CEQA"). The Federal PSD Permit is a federal permit and it is not subject to CEQA, which is a state law.

Can you cite some authority that allows the district to exclude CEQA.

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

Answer: In the Air Quality Impact Analysis for this project, the modeling results showed that impacts for all PSD-regulated pollutants will be below EPA's significance levels. Because the impacts will be less than significant, the District has not compared the impacts from this project with those from other sources in the area (*i.e.*, background). The fact that the impacts from this project will be less than significant shows that the project will not cause or contribute to air pollution in violation of any national ambient air quality standard or increment for any PSD pollutant. The District did look at project impacts plus background concentrations in the context of evaluating the potential impacts on soils and vegetation. That information is in the Soils and Vegetation Analysis section of the Air Quality Impact Analysis summary (Appendix C to the Statement of Basis).

The analysis describes the original site, is there an analysis describing the new site?

Are there BACT Limits for Startup and Shutdown?

Answer: Yes, the District is proposing BACT limits for startup and shutdown. They are described in the Statement of Basis and draft permit conditions.

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

Answer: No. To the extent that it stands for the general proposition that Clean Air Act requirements regarding air emissions should apply to startups and shutdowns, the District is proposing permit conditions to limit emissions for those operating scenarios.

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

Answer: Yes. The draft permit consists of the proposed permit conditions that the facility would be subject to, listed in Section VIII of the Statement of Basis.

Are there NAAQS and Class II Increment Compliance Results available?

Answer: Yes. The Bay Area is designated a Class II area, except for the Point Reyes

National Seashore which is a Class I area. The general analysis in the PSD Air Quality Impact Analysis is for the Bay Area generally, which is a Class II area. The impacts from the proposed project are below EPA's significance levels for all PSD-regulated pollutants, and so no further increment consumption analysis is required.

I noticed NO2 impacts are different on page 92 260 ìg/m3 and page 116 370 ìg/m3. Can someone help me understand the basis for the difference and which if any is correct?

Answer: The 260 ìg/m3 number listed on page 92 is based on current, updated modeling that the District undertook for its current proposal. The 370 ìg/m3 number is from the June 2007 Amended Final Determination of Compliance for the project (Appendix D to the Statement of Basis) and is based on older modeling results. The 260 ìg/m3 is the correct number.

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

Answer: I am not aware of any tables that are incomplete. Mr. Lee tells me that when he talked to you, you suggested that some of the tables should list additional data, but not that any of the tables were incomplete.

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?

Answer: The District understands that Calpine does not intend to use any used equipment. But the Calpine representative is the best source of information about what equipment Calpine plans to use. The emissions calculations the District has used for the proposed facility are based on the emissions performance of new equipment and used equipment with the same emissions performance as new equipment.

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

Answer: The District is proposing to issue the amended Federal PSD Permit in response to permit application no. 15487, which was received by the District on November 28, 2006.

what time limits are there for issuing this permit?

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

Answer: By "Background impact statistics" I presume you mean background ambient air quality data. The District publishes background ambient air quality data from its monitoring stations in the Bay Area on its website. To access it from the District's homepage, click on "air status/technical data" on the left hand side of the page near the top, and then click on "air quality data" from the drop-down menu. (Please note that this is raw, unchecked data and may contain errors.) In addition, the Air Resources Board also publishes such data for the entire state on its website, at http://www.arb.ca.gov

/adam/welcome.html. You should be able to find the information you are looking for at those websites.

When will 2008 background statistics be available?

Answer: Data on ambient air quality is published on the District's website essentially in real time. Data for each hour of each day is available shortly after the end of the hour. 2008 data do not appear to be available yet on the Air Resources Board's website. You will have to contact the Air Resources Board directly to find out when that data will become available.

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

Answer: I presume you are referring to the PM2.5 nonattainment designation that EPA issued on December 22, 2008, which will become effective 90 days after publication in the Federal Register. (I am not aware that EPA has published the Federal Register notice yet.) Being designated nonattainment means that the Bay Area will not be subject to the federal PSD program for this pollutant. PSD applies to pollutants for which the area is in attainment or unclassified only. However, the District intends to continue to treat the proposed Russell City Energy Center as being subject to PSD for particulate matter since the permit application was submitted before the designation, and in any event the District will most likely make its final permit decision before the designation becomes effective. As explained in the Statement of Basis, pursuant to EPA requirements the District uses PM10 as a surrogate for PM2.5 in permitting actions.

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

415-749-4784

-------- 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

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Subject: still hoping for records
From: rob@redwoodrob.com
Date: Fri, Jan 30, 2009 10:17 am
To: "Jack Broadbent" <jbroadbent@baaqmd.gov>

Dear Mr. Broadbent,

I received the following correspondence from Mr Crockett. It identifies that it took from Sept 11 to December 18 to respond to mey information request. Perhaps someone should look at what was sent to me. The bulk of it was my own CEC filings, CEC responses and unidentified engeneering calulations. This does nothing to inform me. My attorney has recommended that I no longer communicate directly with your attorney. It is cumbersome for me to make a fifth visit to try and review the supporting documents for RCEC. Is there a staff person that I can I can contact? When I contact Weyman Lee if anyone responds it is Mr Crockett. I don't really care who responds to my requests if someone does but, I am not receiving accurate or complete answers from Mr Crockett and I should not address my inquiries directly to him.

I think that some of my difficulty is that there is no docket log posted to get some idea of what documents to ask for. I am looking for the administrative record for this facility/permit.To put it another way, It as if I'm being thrown out of a restaurant for not exactly ordering form their invisible menu. I am hungry for knowledge. The bulk of what I have been have fed so far (documents that I filed with the CEC and and their responsive documents to me) is my own excrement. This does little to satisfy my appetite.

The fact that it is 2009 and I have received portions of your record (only from other members of the public) in electronic format(PDF) leads me to believe that much of your record may be available in electronic format. How about if someone sends that to me via email? Then if I have more questions I can come look at what you have written on paper or whatever other format you keep things in.

Thank you,

Rob Simpson
510-909-1800

> -------- Original Message --------
> Subject: Response to 1/14/09 and 1/15/09 Emails
> From: "Alexander Crockett" <ACrockett@baaqmd.gov>
> Date: Wed, January 21, 2009 3:47 pm
> To: <rob@redwoodrob.com>

Mr. Simpson:

Your emails to Jack Broadbent from last Wednesday and Thursday, January 14 and 15, 2009, were forwarded to me for response.

Regarding your September 11, 2008, Public Records Act request (requesting documents subsequent to the July 29, 2008, Environmental Appeals Board remand), the District has already responded and made the documents you requested available for review and inspection. The District responded on September 18, 2008, with responsive documents from the permitting file. The District then conducted an extensive review to locate all additional documents responsive to your request beyond the permitting file, including in email messages to and from District staff working on the project, electronic documents stored on staff computers, paper documents in staff offices, etc. This comprehensive search (and the subsequent review to determine what was discloseable and what was not) took a good deal of staff time and effort, and was finally completed on December 18, 2008, when the District made the additional documents available for review. You subsequently requested that the District copy the additional documents and send them to you, which I understand from our Public Records staff has now been done. (I apologize for the fact that it took some time to have the documents copied and mailed, but we have now done so as you requested.)

Regarding your clarification in your January 15, 2009, email that you would also like to review "all public documents relating to RCEC from 2008 and this year", I understand from the Public Records Staff that they have been in contact with you regarding providing these additional documents and that this further request has been assigned Public Records Request No. 09-01-31. Thank you for clarifying the additional documents you are seeking. It is very important that the District know exactly what documents you want so that we can undertake the proper search and locate all responsive documents. It was not clear from your earlier email correspondence what additional files you wanted to review. For example, it was not clear whether you wanted to review just documents from the project file for the proposed Russell City Energy Center permitting action (as you indicated to me in your email of December 30, 2008), or whether you wanted to review all documents related to that project wherever they may be located anywhere throughout the District (as you indicated in your email to Public Records on December 17, 2008). The latter category is obviously far broader and will take more time and resources to search in full, and will also likely encompass many documents that have no material relevance to the proposed permitting action (*i.e.*, documents that may be "related to" the project but have no bearing on the substance of the proposed permit, such as requests to set up meetings or phone calls). It would not be an appropriate use of District resources to embark on that kind of broad search if you wanted only documents from the project file, as you had indicated several times in the past. Now that you have clarified that you do in fact want all documents in the broader category, the District is prepared to undertake such a search and will provide all responsive documents. (Please keep in mind, however, that this search may take some time due to its breadth, and that the relevant documents supporting the proposed permitting action are already available for public review.)

Finally, I am sorry that you feel that you have not gotten sufficient cooperation from District staff with respect to participating in the permitting process for this project. Staff have attempted to provide as much information as possible, and to do so as quickly as possible given the other competing demands on their time. District staff responded within one week to provide the most relevant documents responsive to your September 11, 2008, Public Records Act request (the documents from the permit file). Staff then undertook the research task to find any and all additional documents as described above, and given the time and effort required had to take until December 18, 2008 to make them available to you. Staff also worked with you to try to understand what you were looking for after it became clear that you wanted additional documents in December of 2008, and now that we have been able to clarify what you want Staff will respond as

soon as is reasonably possible. Staff have also endeavored to answer the specific questions you have had about this project on a number of occasions, which is over and above what is required by law but is in keeping with the District's desire to encourage informed public participation. I myself have responded to a number of emails asking questions about the legal and technical basis of the proposed permitting action. And finally, staff have made available since the Proposed Federal PSD Permit was first issued a large volume of material supporting this proposed permitting action, which we have encouraged you to review to learn more about this project. I hope that you will appreciate these efforts that the District has made to help you (and other members of the public) get informed about this proposed permitting action. The District believes that these efforts have provided you and the public with all of the necessary information to understand the District's proposal to issue the Federal PSD Permit and to put you in the position to participate effectively and provide meaningful, informed comments on the proposed action.

Please let me know if you have any other questions or if I can be of further assistance.

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

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Subject: RE: Public Records Act request re Russell City Energy Center
From: "Alexander Crockett" <ACrockett@baaqmd.gov>
Date: Wed, Jan 21, 2009 12:13 pm
To: <rob@redwoodrob.com>

Below are responses to the additional questions at the bottom of the email that I initially did not see. As for whether the District issued a Federal PSD Permit for the project as initially proposed, it appears that only a District permit was issued in May of 2003, not a Federal PSD Permit. We have not found any record that a Federal PSD permit was issued subsequent to that time, although if we do find a record of such an action I will let you know. As for the Authority to Construct for this project, you should already have a copy – it was the permit you appealed it to the District's Hearing Board in January of 2008.

Sandy Crockett

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Assistant Counsel
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Fax: (415) 749-5103
www.baaqmd.gov

From: rob@redwoodrob.com [mailto:rob@redwoodrob.com]
Sent: Wednesday, January 21, 2009 9:38 AM
To: Alexander Crockett
Subject: Public Records Act request re Russell City Energy Center

There were a few more questions further down in the body of the email. Please respond to them also.
How long do you expect it to take to determine if the district issued a permit in 2002?
Can you email me a copy of the Authority to Construct?
R

-------- Original Message --------
Subject: RE: Public Records Act request re Russell City Energy Center
From: "Alexander Crockett" <ACrockett@baaqmd.gov>
Date: Tue, January 20, 2009 5:35 pm
To: <rob@redwoodrob.com>

Mr. Simpson:

I've researched the additional questions you asked and have some further information in

response, which is set forth below.

From: rob@redwoodrob.com [mailto:rob@redwoodrob.com]
Sent: Thursday, January 15, 2009 2:00 PM
To: Alexander Crockett
Subject: Public Records Act request re Russell City Energy Center

Mr. Crockett,

I have a couple more questions and a couple clarification requests that I interjected into your prior responses.

Has the Authority to construct been rescinded or is it still valid? Will the District be issuing a new ATC?

RESPONSE: The Authority to Construct for the Russell City Energy Center as amended is still valid. The District is not anticipating issuing a new Authority to Construct for the project.

The CEC docket log shows no record of this proceeding have you notified the CEC of the present action? " Will this action be"considered a final Determination of whether the facility can be constructed or operated "?

RESPONSE: 1: The CEC was on the list of agencies that the District notified of the proposal to issue the Federal PSD Permit. 2: If and when the District issues a final PSD Permit, the permit will be a final determination that the proposed facility will comply with all applicable requirements of the Federal PSD Program, along with permit conditions to ensure compliance.

The "fact Sheet" states:

The Air District is proposing to incorporate the changes that have been made to the
proposed project into the Federal PSD Permit that was initially issued in 2002, including
the new project site.

but the EAB stated:

RCEC originally 11 filed for certification by the CEC in early or mid-2001, and was initially certified by the CEC on Sept. 11, 2002, pursuant to the Warren-Alquist Act, see supra. During the initial CEC certification process, which also incorporated the District permitting, the District issued a PDOC/Draft PSD Permit to RCEC in November 2001. However, **the District did not proceed to issue a final PSD permit** because RCEC withdrew plans to construct the project in the spring of 2003. See Letter from Gerardo

C. Rios, Chief, Permits Office, U.S. EPA Region 9, to Ryan Olah, Chief Endangered Species Division, U.S. Fish and Wildlife Service (Jun. 11, 2007). The amended CEC certification and PSD permitting were required because RCEC afterwards proposed relocating the project 1,500 feet to the north of its original location. See Final PSD Permit, Application No. 15487 ("Final Permit") at 3.
EAB remand footnote 11 page 13 (emphasis added)

Which one is correct? If the District did issue a PSD permit in 2002 please forward it to me.

RESPONSE: We are researching whether the District did in fact issue a PSD permit for the project as initially planned in 2002. Please note however that the District analyzed the proposed project in its entirety, as explained in the Statement of Basis for the current proposed permit, and did not rely on any of the permit analysis conducted for the 2002 permitting action. The current analysis in the Statement of Basis shows that even if this permitting action is seen as issuance of an initial permit instead of an amendment to an existing one, the project still satisfies the applicable Federal PSD requirements.

Are the emission reduction Credits contemporaneous for federal purposes?

RESPONSE: Offsetting emissions increases with Emissions Reduction Credits is a state-law requirement. Emissions Reductions Credits are not used for "federal purposes".

Is the ERC without information acceptable federally?
(Information for certificate #30 is not available)
SOB 115

RESPONSE: See previous response.

The Public notice states:

The proposed Russell City Energy Center is a 600-megawatt natural gas fired combined-cycle power plant to be built by Russell City Energy Company, LLC, (50 W. San Fernando Street, San Jose, CA 95113) an affiliate of Calpine Corporation.

Does Calpine have a partner? Is GE still a 35% partner? If so should this have been disclosed in the notice?

RESPONSE: The public notice of the proposed permitting action is required to state who the permit applicant is, which here is the Russell City Energy Company, LLC. The District in this case provided additional information to explain that Russell City Energy Company LLC is an affiliate of Calpine Corporation. If Calpine has a minority partner in the Russell City Energy Company, LLC, that information was not required to be in the notice.

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From: "Alexander Crockett" <ACrockett@baaqmd.gov>
Date: Wed, January 07, 2009 5:28 pm
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Cc: ANDREW III; VACATIONPOMBO@aol.com
Subject: Public Records Act request re Russell City Energy Center

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RESPONSE: I have been told by the Public Records staff that copies of the documents have been mailed to you.

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RESPONSE: See previous response.

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

Answer: There is no "lead agency" for the issuance of a Federal PSD Permit. "Lead agency" is a concept from the California Environmental Quality Act ("CEQA"). The Federal PSD Permit is a federal permit and it is not subject to CEQA, which is a state law.

Can you cite some authority that allows the district to exclude CEQA.

RESPONSE: The California Environmental Quality Act. It is a California law, and applies only to agency permitting actions under California law. The Federal PSD Permit is a federal permit issued on EPA's behalf under EPA's authority under the federal Clean Air Act.

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

Answer: In the Air Quality Impact Analysis for this project, the modeling results showed that impacts for all PSD-regulated pollutants will be below EPA's significance levels. Because the impacts will be less than significant, the District has not compared the impacts from this project with those from other sources in the area (*i.e.*, background). The fact that the impacts from this project will be less than significant shows that the project will not cause or contribute to air pollution in violation of any national ambient air quality standard or increment for any PSD pollutant. The District did look at project impacts plus background concentrations in the context of evaluating the potential impacts on soils and vegetation. That information is in the Soils and Vegetation Analysis section of the Air Quality Impact Analysis summary (Appendix C to the Statement of Basis).

The analysis describes the original site, is there an analysis describing the new site?

RESPONSE The analysis is based on the currently proposed site.

Are there BACT Limits for Startup and Shutdown?

Answer: Yes, the District is proposing BACT limits for startup and shutdown. They are described in the Statement of Basis and draft permit conditions.

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

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

Answer: Yes. The draft permit consists of the proposed permit conditions that the facility would be subject to, listed in Section VIII of the Statement of Basis.

Are there NAAQS and Class II Increment Compliance Results available?

Answer: Yes. The Bay Area is designated a Class II area, except for the Point Reyes National Seashore which is a Class I area. The general analysis in the PSD Air Quality Impact Analysis is for the Bay Area generally, which is a Class II area. The impacts from the proposed project are below EPA's significance levels for all PSD-regulated pollutants, and so no further increment consumption analysis is required.

I noticed NO2 impacts are different on page 92 260 ìg/m3 and page 116 370 ìg/m3. Can someone help me understand the basis for the difference and which if any is correct?

Answer: The 260 ìg/m3 number listed on page 92 is based on current, updated modeling that the District undertook for its current proposal. The 370 ìg/m3 number is from the June 2007 Amended Final Determination of Compliance for the project (Appendix D to the Statement of Basis) and is based on older modeling results. The 260 ìg/m3 is the correct number.

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

Answer: I am not aware of any tables that are incomplete. Mr. Lee tells me that when he talked to you, you suggested that some of the tables should list additional data, but not that any of the tables were incomplete.

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?

Answer: The District understands that Calpine does not intend to use any used equipment. But the Calpine representative is the best source of information about what equipment Calpine plans to use. The emissions calculations the District has used for the proposed facility are based on the emissions performance of new equipment and used equipment with the same emissions performance as new equipment.

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

Answer: The District is proposing to issue the amended Federal PSD Permit in response

to permit application no. 15487, which was received by the District on November 28, 2006.

what time limits are there for issuing this permit?

RESPONSE: I have not researched time limits for issuing the proposed Federal PSD permit. If you are aware of applicable time limits that may implicate this permitting decision, I would appreciate it if you could let me know.

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

Answer: By "Background impact statistics" I presume you mean background ambient air quality data. The District publishes background ambient air quality data from its monitoring stations in the Bay Area on its website. To access it from the District's homepage, click on "air status/technical data" on the left hand side of the page near the top, and then click on "air quality data" from the drop-down menu. (Please note that this is raw, unchecked data and may contain errors.) In addition, the Air Resources Board also publishes such data for the entire state on its website, at http://www.arb.ca.gov /adam/welcome.html. You should be able to find the information you are looking for at those websites.

When will 2008 background statistics be available?

Answer: Data on ambient air quality is published on the District's website essentially in real time. Data for each hour of each day is available shortly after the end of the hour. 2008 data do not appear to be available yet on the Air Resources Board's website. You will have to contact the Air Resources Board directly to find out when that data will become available.

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

Answer: I presume you are referring to the PM2.5 nonattainment designation that EPA issued on December 22, 2008, which will become effective 90 days after publication in the Federal Register. (I am not aware that EPA has published the Federal Register notice yet.) Being designated nonattainment means that the Bay Area will not be subject to the federal PSD program for this pollutant. PSD applies to pollutants for which the area is in attainment or unclassified only. However, the District intends to continue to treat the proposed Russell City Energy Center as being subject to PSD for particulate matter since the permit application was submitted before the designation, and in any event the District will most likely make its final permit decision before the designation becomes effective. As explained in the Statement of Basis, pursuant to EPA requirements the District uses PM10 as a surrogate for PM2.5 in permitting actions.

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
415-749-4784

-------- 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

Print | Close Window

Subject: 09-04-86_Simpson
From: "Public Records" <PublicRecords@baaqmd.gov>
Date: Mon, May 04, 2009 11:27 am
To: <rob@redwoodrob.com>
Cc: "Alexander Crockett" <ACrockett@baaqmd.gov>, "William Guy" <wguy@baaqmd.gov>

09-04-86_Simpson

Good morning to you Mr. Simpson,

Here is a list of all of the applications. You will need to schedule an appointment to view and make any copies you wish. Some of the files are quite thick. Please email or call me to schedule an appointment. We have been very busy with appointments so lets get a date that is best for the both of us. I await your call or email to let me know when you would like to come in a make copies. None of the records you requested are available electronically. They are all hard copy files.

Plant #: 18143
Company name: Gateway Generating Station
Location: 3225 Wilbur Avenue, Antioch, CA 94509

Application #: 15777
Project title: Title V Initial Acid Rain
Engineer: Brian K Lusher [1015]
Received: 02/20/07

Application #: 20242
Project title: 300 bhp Emergency Diesel Fire Pump Engineer
Engineer: Brian K Lusher [1015]
Received: 03/06/09

Application #: 20385
Project title: Determination of Exemption
Engineer: Brian K Lusher [1015]
Received: 03/23/09

Application #: 1000
Banking #: 795
Project title: New Source/Gas Turbine
Engineer: Brian K Lusher [1015]
Received: 03/06/00
Final disposition: A/C granted, 07/24/01

Application #: 14550
Project title: Oil Water Separator(PO of 8/25/06 changed to AC)
Engineer: Craig S Ullery [394]
Received: 04/27/06
Final disposition: A/C granted, 08/25/06

Application #: 16115
Project title: Renewal of Gateway Generating Station (A/N 1000)

Engineer: Brian K Lusher [1015]
Received: 05/04/07
Final disposition: Grant/Issue, 06/19/07

Application #: 17182
Project title: Modification/Combustion Turbine Generators
Engineer: Brian K Lusher [1015]
Received: 01/07/08
Final disposition: Canceled, 02/19/09

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

Rochelle Henderson,
Public Records Coordinator
415-749-4784

From: rob@redwoodrob.com [mailto:rob@redwoodrob.com]
Sent: Thursday, April 30, 2009 1:44 PM
To: Public Records
Subject: public records request Gateway

Hi,
I attached my public records request for all available information about the Gateway power plant.
thank you
Rob Simpson
510-909-1800

Print | Close Window

Subject: [SPAM] RE: Russell City Energy Center
From: "Jack Broadbent" <jbroadbent@baaqmd.gov>
Date: Wed, Jan 14, 2009 1:45 pm
To: <rob@redwoodrob.com>

Dear Mr. Simpson:

I'm interested in your interactions with the District to date. Could you identify the specific staff persons you've dealt with in your attempts to obtain public records.

Thanks.

Jack

From: rob@redwoodrob.com [mailto:rob@redwoodrob.com]
Sent: Wednesday, January 14, 2009 12:59 PM
To: Jack Broadbent
Subject: Russell City Energy Center

Mr Broadbent,

I want to make sure that you are aware of the difficulty that I am having obtaining public records. In addition the following email excerpts I have made numerous visits and had repeated conversations with various members of your staff. I have still not received a response to requests dating back as far as September. It will be impossible for me to make informed comments until such time as documents are released to me and reviewed.

Thank You
Rob Simpson

-------- Original Message --------
Subject: RE: Public Records Act request re Russell City Energy Center
From: "Alexander Crockett" <ACrockett@baaqmd.gov>
Date: Wed, January 07, 2009 5:28 pm
To: <rob@redwoodrob.com>

...The copies have been made and sent to you. I understand that they went out in today's mail...

-------- Original Message --------
Subject: RE: Public Records Act request re Russell City Energy Center
From: "Alexander Crockett" <ACrockett@baaqmd.gov>
Date: Wed, December 31, 2008 2:47 pm
To: <rob@redwoodrob.com>

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 then 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>

ubject: ↑ RE: record request
From: "Public Records" <PublicRecords@baaqmd.gov> **To:** <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

415-749-4784

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 renoticing 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

"renotice" 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 ìg/m3 and page 116 370 ìg/m3. 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

415-749-4784

-------- 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

Print | Close Window

Subject: Public Records Requests
From: rob@redwoodrob.com
Date: Thu, Jan 15, 2009 12:14 pm
To: "Alexander Crockett" <ACrockett@baaqmd.gov>

I have still received no documents.
Rob Simpson

> -------- Original Message --------
> Subject: Public Records Requests
> From: rob@redwoodrob.com
> Date: Thu, January 15, 2009 12:10 pm
> To: "Jack Broadbent" <jbroadbent@baaqmd.gov>
> Cc: "Public Records" <PublicRecords@baaqmd.gov>
>
> Mr Broadbent,
>
> Is this the response to our communication yesterday? I believe that I have been clear that I would like to review all public documents relating to RCEC from 2008 and this year. I have repeatedly been promised documents that have not been received. I have been misled, misinformed and undermined in my attempts to participate in this process. I will be reserving my right to comment until such time as the District has been compelled to provide the necessary documents.
>
> Rob Simpson
>
> > -------- Original Message --------
> > Subject: Public Records Requests
> > From: "Public Records" <PublicRecords@baaqmd.gov>
> > Date: Thu, January 15, 2009 11:10 am
> > To: <rob@redwoodrob.com>
> >
> > Dear Mr. Simpson:
> >
> > We have received several emails from you over the past weeks and months regarding a desire by you to have access to public records regarding the Russell City Energy Center from 2008 (in addition to the more narrow request you made on September 11, 2008, which we have already responded to). The emails have not been entirely clear about what additional documents from 2008 you would like to have access to. We have attempted multiple times to clarify with you what documents you would like to review, but you have not responded. We are therefore closing out this request at this time. If you would like to reinitiate a request for records relating to this facility from 2008, or for any other public records in the District's possession, please contact the District's Public Records section at this email address or by calling (415) 749-4761 and we will be glad to help you.
> >
> > Thank you,
> > Public Records Staff

In house: Public Records
publicrecords@baaqmd.gov

Rochelle Henderson,
Public Records Coordinator
415-749-4784

Print | Close Window

Subject: [SPAM] RE: Russell City Energy Center
From: "Jeffrey McKay" <JMckay@baaqmd.gov>
Date: Thu, Jan 15, 2009 4:01 pm
To: <rob@redwoodrob.com>

Mr. Simpson,

Jack Broadbent is out of the office and asked me to respond. I have been in touch with our staff and they will contact you with more information today.

Jeff McKay

Deputy Air Pollution Control Officer
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109
(415) 749-4629

From: rob@redwoodrob.com [mailto:rob@redwoodrob.com]
Sent: Wednesday, January 14, 2009 12:59 PM
To: Jack Broadbent
Subject: Russell City Energy Center

Mr Broadbent,

I want to make sure that you are aware of the difficulty that I am having obtaining public records. In addition the following email excerpts I have made numerous visits and had repeated conversations with various members of your staff. I have still not received a response to requests dating back as far as September. It will be impossible for me to make informed comments until such time as documents are released to me and reviewed.

Thank You
Rob Simpson

-------- Original Message --------
Subject: RE: Public Records Act request re Russell City Energy Center
From: "Alexander Crockett" <ACrockett@baaqmd.gov>
Date: Wed, January 07, 2009 5:28 pm
To: <rob@redwoodrob.com>

...The copies have been made and sent to you. I understand that they went out in today's mail...

-------- Original Message --------
Subject: RE: Public Records Act request re Russell City Energy Center
From: "Alexander Crockett" <ACrockett@baaqmd.gov>
Date: Wed, December 31, 2008 2:47 pm
To: <rob@redwoodrob.com>

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 then 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>

ubject: ↑ RE: record request

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

415-749-4784

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 renoticing 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 "renotice" 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 ìg/m3 and page 116 370 ìg/m3. 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
415-749-4784

-------- 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

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Subject: still hoping for records
From: rob@redwoodrob.com
Date: Fri, Jan 30, 2009 10:17 am
To: "Jack Broadbent" <jbroadbent@baaqmd.gov>

Dear Mr. Broadbent,

I received the following correspondence from Mr Crockett. It identifies that it took from Sept 11 to December 18 to respond to mey information request. Perhaps someone should look at what was sent to me. The bulk of it was my own CEC filings, CEC responses and unidentified engeneering calulations. This does nothing to inform me. My attorney has recommended that I no longer communicate directly with your attorney. It is cumbersome for me to make a fifth visit to try and review the supporting documents for RCEC. Is there a staff person that I can I can contact? When I contact Weyman Lee if anyone responds it is Mr Crockett. I don't really care who responds to my requests if someone does but, I am not receiving accurate or complete answers from Mr Crockett and I should not address my inquiries directly to him.

I think that some of my difficulty is that there is no docket log posted to get some idea of what documents to ask for. I am looking for the administrative record for this facility/permit.To put it another way, It as if I'm being thrown out of a restaurant for not exactly ordering form their invisible menu. I am hungry for knowledge. The bulk of what I have been have fed so far (documents that I filed with the CEC and and their responsive documents to me) is my own excrement. This does little to satisfy my appetite.

The fact that it is 2009 and I have received portions of your record (only from other members of the public) in electronic format(PDF) leads me to believe that much of your record may be available in electronic format. How about if someone sends that to me via email? Then if I have more questions I can come look at what you have written on paper or whatever other format you keep things in.

Thank you,

Rob Simpson
510-909-1800

> -------- Original Message --------
> Subject: Response to 1/14/09 and 1/15/09 Emails
> From: "Alexander Crockett" <ACrockett@baaqmd.gov>
> Date: Wed, January 21, 2009 3:47 pm
> To: <rob@redwoodrob.com>

Mr. Simpson:

Your emails to Jack Broadbent from last Wednesday and Thursday, January 14 and 15, 2009, were forwarded to me for response.

Regarding your September 11, 2008, Public Records Act request (requesting documents subsequent to the July 29, 2008, Environmental Appeals Board remand), the District has already responded and made the documents you requested available for review and inspection. The District responded on September 18, 2008, with responsive documents from the permitting file. The District then conducted an extensive review to locate all additional documents responsive to your request beyond the permitting file, including in email messages to and from District staff working on the project, electronic documents stored on staff computers, paper documents in staff offices, etc. This comprehensive search (and the subsequent review to determine what was discloseable and what was not) took a good deal of staff time and effort, and was finally completed on December 18, 2008, when the District made the additional documents available for review. You subsequently requested that the District copy the additional documents and send them to you, which I understand from our Public Records staff has now been done. (I apologize for the fact that it took some time to have the documents copied and mailed, but we have now done so as you requested.)

Regarding your clarification in your January 15, 2009, email that you would also like to review "all public documents relating to RCEC from 2008 and this year", I understand from the Public Records Staff that they have been in contact with you regarding providing these additional documents and that this further request has been assigned Public Records Request No. 09-01-31. Thank you for clarifying the additional documents you are seeking. It is very important that the District know exactly what documents you want so that we can undertake the proper search and locate all responsive documents. It was not clear from your earlier email correspondence what additional files you wanted to review. For example, it was not clear whether you wanted to review just documents from the project file for the proposed Russell City Energy Center permitting action (as you indicated to me in your email of December 30, 2008), or whether you wanted to review all documents related to that project wherever they may be located anywhere throughout the District (as you indicated in your email to Public Records on December 17, 2008). The latter category is obviously far broader and will take more time and resources to search in full, and will also likely encompass many documents that have no material relevance to the proposed permitting action (*i.e.*, documents that may be "related to" the project but have no bearing on the substance of the proposed permit, such as requests to set up meetings or phone calls). It would not be an appropriate use of District resources to embark on that kind of broad search if you wanted only documents from the project file, as you had indicated several times in the past. Now that you have clarified that you do in fact want all documents in the broader category, the District is prepared to undertake such a search and will provide all responsive documents. (Please keep in mind, however, that this search may take some time due to its breadth, and that the relevant documents supporting the proposed permitting action are already available for public review.)

Finally, I am sorry that you feel that you have not gotten sufficient cooperation from District staff with respect to participating in the permitting process for this project. Staff have attempted to provide as much information as possible, and to do so as quickly as possible given the other competing demands on their time. District staff responded within one week to provide the most relevant documents responsive to your September 11, 2008, Public Records Act request (the documents from the permit file). Staff then undertook the research task to find any and all additional documents as described above, and given the time and effort required had to take until December 18, 2008 to make them available to you. Staff also worked with you to try to understand what you were looking for after it became clear that you wanted additional documents in December of 2008, and now that we have been able to clarify what you want Staff will respond as

soon as is reasonably possible. Staff have also endeavored to answer the specific questions you have had about this project on a number of occasions, which is over and above what is required by law but is in keeping with the District's desire to encourage informed public participation. I myself have responded to a number of emails asking questions about the legal and technical basis of the proposed permitting action. And finally, staff have made available since the Proposed Federal PSD Permit was first issued a large volume of material supporting this proposed permitting action, which we have encouraged you to review to learn more about this project. I hope that you will appreciate these efforts that the District has made to help you (and other members of the public) get informed about this proposed permitting action. The District believes that these efforts have provided you and the public with all of the necessary information to understand the District's proposal to issue the Federal PSD Permit and to put you in the position to participate effectively and provide meaningful, informed comments on the proposed action.

Please let me know if you have any other questions or if I can be of further assistance.

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

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Subject: Please extend the public comment period
From: rob@redwoodrob.com
Date: Wed, Feb 04, 2009 11:54 am
To: "Daniel Smith" <dsmith@baaqmd.gov>

I would like to come in today at 1pm to review the RCEC files including the ATC, application and any changes that have been made to tha application.

Rob Simpson
510-909-1800

> -------- Original Message --------
> Subject: [SPAM] FW: Please extend the public comment period
> From: "Daniel Smith" <dsmith@baaqmd.gov>
> Date: Tue, February 03, 2009 4:50 pm
> To: <rob@redwoodrob.com>
>
> Dear Mr. Simpson,
>
> I have been looking into which documents are available electronically, which are available on our website, etc.
>
> I was expecting your visit today at our 2:30 appointment today so we could discuss it more.
>
> Basically, there are so many individual documents that we think -- at this time, in advance of responding to your Public Records Act request -- it would be better to see which documents you are interested in and then determine how best to get them to you. Some many need copying, some may be electronic, some may already be on the web.
>
> If you have changed your mind about coming in, I will continue researching which documents can be emailed to you.
>
> Sincerely,
> Dan Smith
> **Daniel C. Smith**
> Senior Public Information Officer
> Public Information & Outreach
> Bay Area Air Quality Management District
> 939 Ellis Street
> San Francisco, CA 94109
> Tel: 415.749.5130
> Fax: 415.749.5101
> www.baaqmd.gov
>
> ---
>
> **From:** Jim Smith
> **Sent:** Tuesday, February 03, 2009 4:34 PM
> **To:** Daniel Smith
> **Subject:** FW: Please extend the public comment period
>
> Dan:

Did you speak with this person and he's mixing us up? I do not remember a conversation with him.

Jim

Public Information Officer II
Bay Area Air Quality Management District
939 Ellis Street, 5th Floor
San Francisco, CA 94109
(415) 749-4631
jsmith@baaqmd.gov

From: rob@redwoodrob.com [mailto:rob@redwoodrob.com]
Sent: Tuesday, February 03, 2009 3:32 PM
To: Jim Smith
Cc: Jack Broadbent
Subject: Please extend the public comment period

Mr. Smith,

I have received no documents pursuant to our conversion yesterday. We spoke on the phone. My understanding was that you would send me the portions of your administrative record for RCEC, by email, that were in electronic format then I would come review any paper documents. Please extend the public comment period until 30 days after such time as the District sees fit to provide the public the supporting documents for the permit.

Rob Simpson

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET
SAN FRANCISCO, CA. 94109

ATTENTION: ADMINISTRATIVE SERVICES DIVISION
e-mail request to: ***publicrecords@baaqmd.gov***

Office Use Only
P.R.R. NUMBER

Direct Dial: (415) 749-4761
FAX: (415) 749-5111

PUBLIC RECORDS REQUEST FORM

ATTENTION REQUESTOR: To expedite your request for District records, please fill out this form completely. Specifically identify the type of records you are requesting from the list below. **NOTE:** There is a limit of one facility or one site address per request form.

REQUESTOR INFORMATION

NAME: ***Rob Simpson***			DATE:
COMPANY:			
MAILING ADDRESS: ***27126 Grandview avenue***			
CITY: ***Hayward***	STATE: ***ca***	ZIP CODE: ***94542***	PHONE NUMBER: ***510-909-1800***

REQUESTED FACILITY INFORMATION

FACILITY NAME: ***Gateway***		
FACILITY ADDRESS: ***3223 Wilbur Avenue***		
CITY:***Antioch***	STATE:***CA***	ZIP CODE:
TIME PERIOD OF DOCUMENTS REQUESTED:	From:***2000***	To:***PRESENT***

REQUESTED RECORDS *(Check **no more than three** applicable items)*

Complaint Information ☐ Complaint Printout ☐ Specific Complaint #	**Notice Of Violation Information** ☐ NOV Printout ☐ Specific NOV #	OTHER: * * * ***Please email all available electronic data. If there is any information that is not available electronically please inform me and copy it. I will pick it up. thank you***
Episode Information ☐ Episode Printout ☐ Specific Episode #	☐ AB2588 Inventory ☒ Source Test Reports ☐ Lab Report #	
Permit Application Information ☐ Permit Application Printout ☐ Specific Application # ☐ Permit Conditions	☐ Review Permit Files * ☐ Review Enforcement Files ** ☐ Review Rule Development Files ** ☐ Asbestos Notifications	

* Subject to facility review (i.e., trade secrets).
** You will be contacted to schedule an appointment date to review records.
*** If what you are seeking is not on this Form, you may attach a letter with additional information on the request.

Cost: ***Copies: $.10 per page; Diskette $5.00; CD $10.00; Audiotape $5.00; Microfiche sheet $8.00.***
Note: After a preliminary estimate, **advance payment may be required.**

☒ I hereby agree to reimburse the BAAQMD for the direct cost of duplicating the information requested in accordance with Gov't Code Section 6253(b).

OFFICE USE ONLY:

☐ Enclosed are the records you requested.

☐ We are unable to provide the records you requested.
☐ A search was made but no records were found.
☐ We are unable to find the record you requested because the request did not include sufficient information to find it.
☐ Out of District's Jurisdiction.