

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

In the matter of
Russell City Energy Center

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) PSD Appeal No. 08-01
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REQUEST TO TAKE OFFICIAL NOTICE

Respondent Bay Area Air Quality Management District (“District”) respectfully requests that the Environmental Appeals Board take official notice of the Order Denying Petitions For Intervention and Denying Petitions For Reconsideration, Etc., *In re Amendment to Application for Certification of the Russell City Energy Center Project*, Proceeding No. 01-AFC-7C (Cal. Energy Comm’n. Nov. 7, 2007), (“CEC Reconsideration Order”), a true and correct copy of which is attached hereto as Exhibit A. The CEC Reconsideration Order is an official record of the California Energy Commission, an entity of the government of the State of California. It is made publicly available by the California Energy Commission in the Commission’s Docket No. 01-AFC-7C, and is published electronically on the Commission’s website at http://www.energy.ca.gov/sitingcases/russellcity_amendment/notices/2007-12-13_ORDER_DENYING_PETITION_AND_RECONSIDERATION.PDF. As an official government record, it is subject to official notice by the Environmental Appeals Board. *See In re City of Denison*, 4 E.A.D. 414, 419 n. 8 (EAB 1992) (citing cases).

The District further requests that the Board take official notice of the Amicus Brief of the California Energy Commission In Support of Motion to Dismiss for Lack of Jurisdiction filed in *In the matter of the Appeal of Rob Simpson etc.*, BAAQMD Hearing Board Docket No. 3456 (filed Feb. 28, 2008), a true and correct copy of which is attached hereto as Exhibit B. The Amicus Brief is an official record of the District’s Hearing Board, a body of a regional governmental agency of the State of California. It is made publicly available by the Hearing Board in the Board’s Docket No. 3546. It is also an official government record subject to official notice by the Environmental Appeals Board. *See City of Denison*, 4 E.A.D.419 n. 8.

Dated: March 6, 2008

Respectfully Submitted

BRIAN C. BUNGER, ESQ.
DISTRICT COUNSEL
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

_____/s/_____
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