
**BEFORE THE EXECUTIVE SECRETARY
UTAH DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION OF AIR QUALITY**

In the matter of:

**REVOLUTION FUELS, LLC
COAL TO LIQUID FACILITY AIR
QUALITY APPROVAL ORDER (DAQE-
AN154900001-16)**

**ORDER ON PETITION TO
INTERVENE**

September 20, 2016

Administrative Law Judge
Bret F. Randall

This matter is before me pursuant to appointment by the Executive Director of the Utah Department of Environmental Quality dated August 18, 2016. The appointment charges me to conduct a permit review adjudicative proceeding in this matter based on the administrative record and not as a trial *de novo*, in accordance with Utah Code Ann., § 19-1-301.5 and Utah Admin. Code R305-7.

On July 26, 2016, the Sierra Club filed a Petition for Review with the Executive Director, together with a Petition to Intervene and Statement of Standing. The Petition to Intervene (and its attachments) appears to have been served on all parties to this matter and the time for filing any opposition has expired under applicable procedural rules. Therefore, I find and concluded that the Petition to Intervene is unopposed.

Intervention in this permit review adjudicative proceeding is governed by Section 19-1-301.5(7). Having considered the Petition to Intervene and the attached affidavits, and in the

absence of any opposition, I find and conclude that the Sierra Club has satisfied the procedural and substantive requirements of Utah Code Ann. § 19-1-301.5(7).

As to standing, Utah Code Ann. § 63G-4-207(1)(c) requires that petitioners seeking intervention include “a statement of facts demonstrating that the petitioner’s legal rights or interests are substantially affected by the formal adjudicative proceeding, or that the petitioner qualifies as an intervenor under any provision of law.” Section 19-1-301.5(7)(c)(ii)(a) charges the administrative law judge to grant intervention in a permit review adjudicative proceeding if the ALJ finds that the petitioner “demonstrates that the petitioner’s legal interests may be substantially affected by the permit review adjudicative proceeding”

“Utah standing law operates as gatekeeper to the courthouse, allowing in only those cases that are fit for judicial resolution.” Sierra Club v. Utah Air Quality Board, 2006 UT 74, ¶17, 148 P.3d 960 (*citations and internal quotation marks omitted*). The underlying policy of standing is to restrict the judicial branch to “the resolution of those disputes most effectively resolved through the judicial process” by preventing the “significant inroad on the representative form of government that would occur if courts case themselves in the role of supervising the coordinate branches of government or as an open forum for the resolution of political and ideological disputes about the performance of government.” Id. (*citations and internal quotation marks omitted*).

While associations have standing only “if its individual members have standing and the participation of the individual members is not necessary to the resolution of the case,” Sierra Club, 2006 UT 74, ¶21, the Court there found affidavits from Sierra Club members demonstrated that those members had standing under the traditional test because “the affiants have identified

personal adverse effects, sufficient causation, and redressability ... [and] their individual participation is not essential to the resolution of this case.” Id. In this matter, the affidavits submitted are sufficient to satisfy these requirements.

ORDER

Based on the foregoing, it is hereby ordered that the Petition to Intervene is granted.

DATED this 20th day of September, 2016.



BRET F. RANDALL
Administrative Law Judge

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of September, 2016, a true and correct copy of the foregoing **ORDER ON PETITION TO INTERVENE** was served by e-mail upon the following:

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