

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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ENVIRONMENTAL APPEALS BOARD

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IN THE MATTER OF:)	
)	Appeal Numbers PSD 06-01
KNAUF INSULATION GmbH)	PSD 06-02
240 ELIZABETH STREET)	PSD 06-03
SHELBYVILLE, INDIANA)	PSD 06-04
PERMIT NO. NSR 4-4-4, SAC 03-01)	PSD 06-05
)	PSD 06-06
RESPONDENT)	

**KNAUF INSULATION GmbH'S RESPONSE SEEKING SUMMARY
DISPOSITION AND MOTION TO DISMISS**

Comes now Knauf Insulation GmbH ("Knauf"), by counsel, and hereby submits this response seeking summary disposition and motion to dismiss, and in support thereof, states the following:

1. On May 11, 2006, EPA Region 9 issued Permit No. NSR 4-4-4, SAC 03-01 (the "Permit Modification") to Knauf. The Permit Modification includes certain modifications to the original permit, which was issued by Shasta County Air Quality Management District on March 14, 2000. Knauf submitted its application for the Permit Modification on May 21, 2003.
2. The Permit Modification was issued for public comment on January 20, 2006. A public hearing was held soliciting additional comments on March 8, 2006.
3. Several people (collectively, the "Petitioners") have filed petitions (collectively, the "Petitions") with the Environmental Appeals Board (the "Board") seeking review of the Permit Modification, including Henry Francis on June 12, 2006; Colleen Leavitt, Mary Scott, and Celeste Draisner jointly on June 14; Patricia Jiminez on June 14; Joy Louise Newcom on June 19, 2006; Serafin Jiminez on June 19, 2006; and Joanna Caul on June 20, 2006.

4. The Petitions should be summarily denied and dismissed because the EPA acted properly in granting the Permit Modification, and the Petitions do not provide any basis upon which the Board could determine that review is proper. *See In re Carlota Copper Company*, 2004 EPA App. LEXIS 35, at *112 (EAB September 30, 2004) (recognizing the principles that “review be exercised only sparingly, and that petitioners demonstrate that the petition warrants review”).

5. Despite extensive public comment opportunities, the Petitions do not identify a single issue with any specificity on which they believe the Permit Modification is in error. In order for a petition for review to be valid, Petitioners “must include specific information supporting their allegations” and “demonstrate why the permitting authority’s response to [] objections [made during the comment period] warrants review.” *In re Knauf Fiber Glass, GmbH*, 9 E.A.D 1, 5 (EAB 2000); *see also* EPA, THE ENVIRONMENTAL APPEALS BOARD PRACTICE MANUAL 33 (June 2004); *In re: Zion Energy, L.L.C.*, 9 E.A.D. 701, 707 (EAB 2001) (holding that petitioner did not satisfy the requirements for obtaining review because, among other things, the petition failed to indicate “why IEPA’s responses to [public] comments were erroneous”). The Petitions do not identify a single specific objection or reason why Petitioners believe the permitting authority’s responses were improper or invalid, and therefore they should be summarily denied and dismissed.

6. Petitioners instead rely on unsupported rhetoric and comments that are irrelevant to the issuance of the Permit Modification. For example, one petition does not oppose any specific Permit Modification condition, but instead generally asserts that the EPA “cannot be thinking of the public’s health” in granting the Permit Modification. Similarly, another petition explicitly declines to list any of “the multiple facts” which are claimed to support the unstated

objections to the Permit Modification. These kind of non-specific, unsupported comments are representative of all the Petitioners' comments and do not constitute a valid basis for review.

7. Since the Petitions do not satisfy the basic requirements of a petition for review, they should be dismissed immediately.

8. Knauf is harmed by the existence of the Petitions because Knauf loses production capacity equaling tens of thousands of dollars in revenue for each day that the Permit Modification is not in effect. Any delay in the disposition of these Petitions causes further harm to Knauf.

WHEREFORE, Knauf Insulation GmbH respectfully requests that the Board grant this Response Seeking Summary Disposition and Motion to Dismiss.

Respectfully submitted,


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Certificate of Service

The undersigned hereby certifies that a copy of "Knauf Insulation GmbH's Response Seeking Summary Disposition and Motion to Dismiss" has been served this 14th day of July 2006, by depositing a copy of the same in the United States mail, first class postage prepaid and properly addressed to the following:

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