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BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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ENVIR. APPEALS BOARD

In Re:)
Sierra Pacific Industries, Anderson, CA)
)
PSD Permit No. SAC 12-01 /)
Modification PSD 94-PO-18/)
Modification PSD 94-VP-18b/)
Modification PSD 94-VP-18d)

PETITION

Respondents: EPA Region 9 (Region 9), Shasta County Air Quality Management District (SCAQMD)

I hereby certify that this petition submitted by this statement of compliance and the attached certificate of service contains an estimate of 1,013 words.

Background

Sierra Pacific Industries (SPI) currently operates a 4 megawatt cogeneration facility in Anderson, California which was issued PSD permit 94-PO-18 in 1995 by SCAQMD.

In 1998, a permit to continue operations was issued by SCAQMD with the same number (94-PO-18) but as a Title V permit.

In 2003, the EPA withdrew SCAQMD's permitting authority, making Region 9 the PSD permitting authority for Shasta County.

Although SCAQMD's permitting authority had been withdrawn 2 years earlier, it issued Modification PSD 94-VP-18b in 2005.

In 2010, SPI applied to increase its cogeneration facility from a 4 megawatt plant to a 31 megawatt plant. Rather than applying for a new permit, SPI applied for a modification of its existing permit to cover new construction and operations. This increase in size entails a 675% increase of emissions from the plant and 675% more biomass fuel to operate it. The fuel is primarily obtained from clearcutting forests.

Once again, 10 years after SCAQMD's permitting authority had been withdrawn, SCAQMD issued Modification PSD 94-VP-18d in 2013.

On April 25th, 2014 Region 9 approved permit application SAC 12-01.

Arguments before the Board:

1) Petitioner believes that the public was denied fair public review of this process because BACT (Best Available Control Technology) was not considered until after the proposed project was permitted. The BACT previously not considered pertained to approximately 90% of the hazardous CO2 emissions that would be produced by the proposed expansion of the facility. This omission of BACT is a fatal flaw to the public's ability to participate in the environmental review process.

2) Region 9 asserts they are modifying PSD permit 94-PO-18. Yet, this would only require noting the modification while retaining the same permit number. Why is there a new permit number if this is only a modification?

3) Petitioner believes it is a fatal flaw that Region 9 called the process of Permit SAC 12-01 a "modification" throughout the permitting process (without listing the permit they were modifying) and then issued a new permit number to a project purported to be only a modification. Disguising a new permit as a modification of an existing permit only serves to undermine rules, laws, and regulations.

4) This is a new permit for a new facility per the Clean Air Act. Nowhere in the Clean Air Act does it state a new facility can be built as a 'modification' if it is on the same property as an existing facility. This is a fatal flaw in the permitting process.

5) Region 9 revoked and rescinded SCAQMD's authority to issue/modify PSD permits in 2003. In 2005, SCAQMD modified permit 94-PO-18 although they had no authority to do so. Region 9 has now issued an approval of a modification of that permit which was issued without proper authority.

Petitioner believes issuing a modification on a defective permit before repairing the error is a fatal flaw.

6) Region 9 acknowledges on the cover page of PSD permit 12-01, that they are modifying PSD Permit 94-PO-18. Petitioner understands that an appeal regarding PSD 94-PO-18 was before the Environmental Appeals Board (EAB) when Region 9 re-issued approval of PSD modification SAC 12-01. Because there is an open EAB case, Petitioner believes this action by Region 9 represents bad faith and unfair dealing.

7) There is no environmental review process for this permit/modification. An environmental review must be conducted in the beginning of the process or it is not a review. Region 9 claims the SCAQMD's actions are separate. That is the reason the Region gives that the Court has no jurisdiction over an appeal of 94-PO-18/ 94-VP-18b. Yet, they asked the SCAQMD to do the Environmental Review for the SAC 12-01 Permit. Region 9 also asserted this is the Environmental Review for the proposed project. Region 9 cannot have it both ways. Petitioner asks that the Board require the Region to conduct an environmental review.

8) Region 9 had a separate agency conduct the environmental review for this project. Does Region 9 have the authority to delegate this responsibility to SCAQMD, a county agency which

has had its authority withdrawn? If so, isn't Region 9 required to notify interested parties during the review period?

Petitioner asks the Court for relief. A fair process was denied petitioner and her community. Please remand this severely flawed permit back to Region 9. The EPA has the responsibility to protect public health and welfare. This is not being accomplished with the confusing and contradictory actions detailed in this complaint.

Respectfully,



(Marily Woodhouse)

Dated

5/6/14

Marily Woodhouse

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~ Battle Creek Alliance ~
CERTIFICATE OF SERVICE

I hereby certify, under penalty of perjury, that copies of the foregoing in the matter of Sierra Pacific Industries PSD Permit modification No. 12-01/ PSD Permit 94-PO-18/ PSD Permit No. 94-VP-18b/ PSD Permit No. 94-VP-18d were sent to the following Respondents by mail.

* Petition opposing issuance of PSD Permit SAC 12-01, et al.

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