

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

_____	)	
In re: Sierra Pacific Industries, Anderson	)	
	)	
PSD Permit 94-PO-18	)	Appeal Nos. PSD 14-01
PSD Permit 94-VP-18b	)	
PSD Permit 94-VP-18d	)	
_____	)	

SECOND MOTION TO RECONSIDER

Petitioner Celeste Draisner respectfully requests that the Environmental Appeals Board ("Board") reconsider, again based upon new evidence discovered on May 9, 2014 at 4:26 PM.

This information was granted to Citizens for Clean Air from Shasta County Air Quality Management District ("Shasta County AQMD") via email in a single.pdf document. Please forgive Petitioner for the inconvenience this causes.

Petitioner assures the Board that the July 19, 2011 letter from Shasta County AQMD representative John Waldrop to Sierra Pacific Industries ("SPI") representative Shane Young will be vital in understanding the critical matter of jurisdiction. This document is on page 13 of the SPI 94-VP-18.pdf, submitted as Exhibit A.

HISTORY

From 2009 until April 11th, 2013, Shasta County AQMD made attempts to permit a new 31 mgwt biomass facility. Usually, such an action requires a new PSD permit. However, EPA Region 9 ("Region") and Shasta County AQMD hoped to modify the original PSD permit issued in 1995 (by Shasta County AQMD), and circumvent the Clean Air Act.

In 2003, EPA Region 9 revoked and rescinded Shasta County AQMD's authority to issue new PSD permits or modify existing facilities.

On April 10th, 2013 a public hearing was held regarding the above permitting process. The public and project proponent (SPI) were ordered by Shasta County AQMD Air Pollution Control Officer Rick Simon not to ask any questions.

At this April 11, 2013 public hearing regarding the renewal/modification of this project. Shasta County AQMD refused to answer questions from the public. Region and Shasta County AQMD had not decided if they were going to issue a 'renewal' for the SPI Anderson 4 MW sawmill or issue the new 31 MW biomass facility permit 'modification.'

SPI's own representative, Dave Brown, did not know if Shasta County was issuing the 4 MW operating permit 'renewal' or a 'modification' of PSD permit #94-PO-18, which would allow SPI permission to construct. Dave Brown, former SPI Environmental Affairs and Compliance Manager, asked Shasta County AQMD lead representative Rick Simon "Which permit are you approving – the 4MW or the 31 MW?"

## ARGUMENT

Shasta County AQMD clearly had no authority to modify PSD permit 94-PO18. When they modified the permit, the public was not notified.

Since the public did not receive notice of this federal action, an egregious abuse of the permitting process occurred.

Petitioner beseeches the Board for an opportunity to present new evidence and arguments in order to allow the Board to decide the validity of the case on the merits.

## NEW EVIDENCE:

According to representatives from Shasta County AQMD, the "PO" part of 94-PO-18 stands for "Permit to Operate." The original PSD permit *is* the original Permit to Operate. The PSD permit has the exact same number as the Title V permit issued 3 years later. Therefore they *can not* be separate federal and state permits.

The Board acknowledged 94-PO-18 is a PSD permit on page 3 of the Board's May 2, 2014 ORDER DENYING MOTION FOR RECONSIDERATION AND MOTION FOR EXTENSION OF TIME TO AMEND MOTION FOR RECONSIDERATION (Page 3).

**"The Board acknowledged that the challenged permit [94-PO-18] had incorporated some of the requirements from the 1995 PSD permit [94-PO-18]..."**

In 1998, while Shasta County AQMD still had full PSD authority, the County acknowledges they added the Title V into the PSD permit. The county even gave the permit the same number, 94-PO-18.

Petitioner acknowledges that Shasta County AQMD may have erred in this action and the renewals that followed.

However, this action was never corrected. Therefore, 94-PO-18 is a combination PSD and title V permit as evidenced by the County's renewal permit 94-VP-18b. According to representatives from Shasta County AQMD, "V" is for Title V permit and "P" is for PSD permit.

If this were not the case, the facility would have two separate permits, one would be an Authority to Construct/PSD permit and the other a title V permit. This is not the case.

In the July 19, 2011 letter from Shasta County AQMD representative John Waldrop to SPI representative Shane Young, the county states, "The District will begin processing the renewal application and may make modifications to the permit pending the processing of the Application for Authority to Construct of the 31 megawatt cogeneration plant."

How can Region and Shasta County AQMD pretend that the 4MW sawmill and the 31MW power plant are separate when one permit is pending the processing of the other?

When Shasta County AQMD renewed a combination Title V/PSD permit on September 27, 2013, they were conducting a final decision on a federal action. The government's failure to notify interested parties has created another fatal flaw in permitting the proposed SPI 31 MW biomass power plant located next door.

## CONCLUSION

Prior to issuance of the November 8, 2013 public notice on SAC 12-01 (the 31 MW biomass facility), Shasta County AQMD renewed the latest combination PSD/Title V permit (94-VP-18d) on September 27, 2013.

The timing itself betrays the fact that issuance of the 31 MW PSD permit was pending the 4MW sawmill renewal.

Region and Shasta County AQMD were required to notify Petitioner and other interested parties at the time this final federal decision was made.

Respectfully submitted.

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Dated May 9th, 2014