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(Slip Opinion)

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

In re:)	
)	
Prairie State Generating Company)	PSD Appeal No. 05-05
)	
PSD Permit No. 189808AAB)	

[Decided August 24, 2006]

ORDER DENYING REVIEW

***Before Environmental Appeals Judges Scott C. Fulton,
Edward E. Reich, and Anna L. Wolgast.***

PRAIRIE STATE GENERATING COMPANY

PSD Appeal No. 05-05

ORDER DENYING REVIEW

Decided August 24, 2006

Syllabus

The American Bottom Conservancy, American Lung Association of Metropolitan Chicago, Clean Air Task Force, Health and Environmental Justice-St. Louis, Lake County Conservation Alliance, Sierra Club and Valley Watch (collectively, "Petitioners") request review of a prevention-of-significant-deterioration ("PSD") permit ("Permit") that the Illinois Environmental Protection Agency ("IEPA") issued to Prairie State Generating Company, LLC ("Prairie State") authorizing the construction of the Prairie State Generating Station (the "Facility"), which is a proposed 1500-megawatt ("MW") pulverized coal-fuel powered electricity generating plant. The Facility would be located at the mouth of a new underground coal mine, also developed by Prairie State, which would provide the principal source of coal fuel used at the Facility.

Petitioners raise concerns with IEPA's determinations of the "best available control technology" emissions limits ("BACT") for sulfur dioxide ("SO₂"), nitrogen oxides ("NO_x"), and particulate matter ("PM"). For the most part, Petitioners do not take exception to the technology specified by IEPA for pollutant emissions control, although Petitioners do raise issues with each step of the five-step BACT analyses for several pollutants performed by IEPA. Petitioners raise procedural and substantive objections to IEPA's BACT analyses, beginning with what appears to be their principal concern: the proposed fuel source, relatively high-sulfur Illinois coal from the mine that will be co-located with the electric generating plant. Petitioners also take issue with the permit's resulting numeric emission limits. Petitioners additionally contest IEPA's analysis of the Facility's air quality impacts, contend that a review of environmental impacts under NEPA was warranted, and argue that IEPA violated environmental justice obligations.

Held: Review is denied. Petitioners have not met their burden of demonstrating that IEPA's determinations are either factually or legally "clearly erroneous" or otherwise warrant review.

- The Board rejects Petitioners' argument that IEPA improperly excluded low-sulfur coal from its BACT analysis as a method for controlling emissions of SO₂ from the proposed Facility. The statute contemplates that the permit issuer must look to the permit applicant to define the proposed facility's purpose or basic design in its application, at least where that purpose or design is