

Pro Se Petitioner Heidi Strand, Citizens For Clean Air

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

In re: Sierra Pacific Industries)

PSD Permit No. SAC 12-01)

Docket No. SAC 12-01)

Respondent: EPA Region 9)

MOTION REQUESTING LEAVE TO FILE PETITIONER HEIDI STRAND'S "Motion to Provide Supplemental Documentation" - original copies sent via mail by CCA and received by the Clerk of the Board and filed on April 3, 2013.

Heidi Strand (PSD 13-02), Ed W. Coleman (PSD 13-01) and Celeste Draisner (13-03) are members of Citizens for Clean Air. Each Petitioner has filed separate Petitions. Petitioner Heidi Strand seeks to comply with procedural requirements.

A. Compliance with March 25, 2013 "ORDER DENYING EXTENSION OF TIME TO FILE APPEAL BRIEF"

On March 25, 2013 Citizens For Clean Air ("CCA") received from the Environmental Appeals Board ("Board") an "ORDER DENYING EXTENSION OF TIME TO FILE APPEAL BRIEF"

In the March 25, 2013 Board Order, Petitioner Heidi Strand is instructed, "Petitioner does not say when its FOIA request was submitted, or what the Petitioner anticipates it will receive from that request that is not already in the publicly available administrative record and that prevents it from timely preparing filing an 'adequate brief.' Petitioner also has not indicated whether it made any attempts to obtain a copy of any portion of the administrative record from the permitting authority."

Petitioner Heidi Strand respectfully asks that she may comply with the above instructions. Petitioner Heidi Strand requests leave to file, as an attachment, her "2nd FOIA Request" submitted to Region 9 on March 31, 2013.

Petitioner Heidi Strand's first FOIA request was submitted to Region 9 Presiding Administrative Officer Omer Shalev on February 28, 2013. Petitioner Heidi Strand has not yet received a response.

Petitioner Heidi Strand asserts that the available administrative record is not complete. The comments of Petitioner Heidi Strand were severely edited and unfairly represented. Petitioner Rob Simpson in his "Simpson and Helping Hand Tools Petition for Review" (PSD 13-04), states "The Region clearly erred in failing to consider varying the fuel mix in the BACT analysis. The Region summarized my comment but the board should consider my full comment in the subject on page 1 and 2 as argument

against the EPA response.”

It is the complete comments/statements and accompanying contact information of other stakeholders that Petitioner Heidi Strand seeks.

Additionally, the Board should be aware that the administrative record has been changed several times since the final issuance of PSD Permit No. SAC 12-01. The Region 9 Response to Comments (“RTC”) was re-written at least once *after* being released to the public.

Region 9 also amended the RTC document to include the comments/questions of Petitioner Celeste Draisner *after* the final issuance of PSD Permit No. SAC 12-01. Her comments were also considered/answered *after* the final issuance of PSD Permit No. SAC 12-01.

Petitioner Heidi Strand feels that having a more complete administrative record would be helpful to the Board and also the citizen petitioners.

Petitioner Heidi Strand asserts that multiple attempts to obtain a complete copy of the administrative record from the permitting authority have been made, as demonstrated by the attached “2nd FOIA Request” by Petitioner Heidi Strand.

B. Compliance with April 9, 2013 “ORDER CONCERNING BOARD PROCEDURES”

On April 9, 2013, CCA received from the Board an “ORDER CONCERNING BOARD PROCEDURES.”

All efforts are being made to comply with this order.

1. Petitioner respectfully “seek(s) permission from the Board to file the documents”

Petitioner Heidi Strand, Co-chair of Citizens For Clean Air, respectfully requests the Board consider her “Motion to Provide Supplemental Documentation” filed by the Board on April 3, 2013.

Region 9’s April 12, 2013 “Motion for Extension of Time to File Response to Petitions for Review” states “Region 9 acknowledges the *pro se* nature of Petitioners Coleman and Strand, and would not necessarily object to a technical procedural deficiency, particularly one that is so recent.”

2. Petitioner respectfully asks to “explain the relevance of the documents”

Heidi Strand, a stakeholder in an Environmental Justice community, respectfully requests the opportunity to submit “Motion to Provide Supplemental Documentation” filed by the Board on April 3, 2013. She respectfully seeks an opportunity to present two documents that are short and easy to read.

The first document is a March 8, 2013 two page letter from the Shasta County Air Quality Management District (“District”) to Petitioner Heidi Strand which explains that “The District does not have PSD permit authority. PSD permits are currently managed by EPA Region IX. Recent conversations with EPA Region IX staff do not indicate that SPI Anderson is in 'serious violation' with its PSD Permit.”

The second document originates from a website that is linked to the EPA's Enforcement and Compliance History Online (ECHO) program. This one page document indicates that the SPI

Anderson lumber processing facility has been in significant non-compliance for the last 12 quarters.

Petitioner Heidi Strand respectfully requests that the above information be reviewed when considering the issues of a) lack of a public hearing in an Environmental Justice community, b) Region 9's Best Available Control Technology ("BACT") threshold and c) Region 9's "modification" of an existing 4 Megawatt facility to build a new 31 Megawatt facility next door.

Petitioner Heidi Strand understands all petitions must be filed within 30 days of the final permit decision. Petitioner Heidi Strand will not expect the traditional 30 days extension formerly granted to members of Environmental Justice communities after the "Notice of Appeal" has been filed.

3. Petitioner respectfully asks to explain "why they [documents] are being submitted beyond the petition deadline."

EPA Region 9 ("Region 9") has had time to read the supplemental documents provided by Petitioner Heidi Strand.

CCA electronically filed Petitioner Celeste Draisner's "Notice of Appeal" on March 19, 2013. CCA electronically filed "Separate Petition by Appellant Celeste Draisner" on March 26, 2013. The CDX tracking number records prove this.

In the "Separate Petition by Appellant Celeste Draisner," electronically filed by CCA on March 26, 2013, Petitioner Celeste Draisner references these supplemental documents. These supplemental documents were provided to assist the Board in reviewing the issues presented in her petition.

Region 9 appears to assert in their April 12, 2013 "Motion for Extension of Time to File Response to Petitions for Review" that Region 9 also found the Board's April 26, 2013 rules transition period confusing.

In this request for a time extension, Region 9 states, "In the course of discussing the Board's on-line docket with her client, counsel learned that Edward Coleman and Celeste Draisner had filed petitions on March 26, 2013, but that neither petition was posted on the Board's on-line docket until this week, and that Draisner's in particular was not posted until today [April 12]. Counsel immediately called for the Clerk of the Board, who acknowledged recent technical difficulties with posting documents on the Board's website and stated that Region 9 could request an extension of time to file its Response..."

No undue burden would fall upon either the Board or Region 9 if they review the supplemental documentation provided by Petitioner Heidi Strand.

Please allow Petitioner Heidi Strand, a *pro se* citizen in an Environmental Justice community, a chance to submit relevant information pertaining to this permitting decision.

4. Petitioner promises not to send "additional documents at some undetermined point in the future."

Petitioner Heidi Strand promises to comply with all procedural requirements and limitations issued by the Board. It is understood that documents submitted must comply with Board rules.

Respectfully Submitted,

Heidi Strand, Co-chair, Citizens For Clean Air

Date: April 21, 2013

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