



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

Palmdale, California, Combined-Cycle Natural Gas-Fired Electrical Power Plant: U.S. EPA Environmental Appeals Board Addresses Challenge to PSD Permit

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The United States Environmental Protection Agency ("EPA") Environmental Appeals Board ("EAB") issued an October 23rd decision in regards to a challenge to a Clean Air Act Prevention of Significant Deterioration ("PSD") permit.

The Center for Biological Diversity and several other organizations (collectively "CBD") filed a petition before the EAB to review a PSD permit that EPA Region 9 issued to Palmdale Energy, LLC ("Palmdale").

The PSD permit authorized Palmdale to construct and operate the Palmdale Energy Project ("PEP"). The PEP is described as a 645-megawatt combined-cycle natural gas-fired electrical power plant. The plant is in Palmdale, California.

CBD challenged the PSD permit on two principle bases:

- Best Available Control Technology ("BACT")
- Ambient Air Quality Monitoring Analyses

BACT

As to the BACT issue, the EAB notes that CBD proposed a new control technology configuration. This configuration was described as the replacement of the combined-cycle turbines' duct burners with battery storage. This was deemed technology that neither Palmdale nor EPA identified as potential control technology in the original BACT analysis. EPA rejected CBD's proposal as technically infeasible.

EAB held that CBD failed to carry their burden in demonstrating that the permit decision was clearly erroneous or otherwise warranted review. EPA was noted to have explained that it was unaware of CBD's proposed design being applied on any source similar to the PEP facility. Further, none of the facilities use batteries in the fashion identified by the organizations. Also, EAB held that even if battery systems existed that could supply the power for the length of the PEP's facility's peak demand, this sole fact does not indicate that batteries could replace duct burners at the facility because the purposes and function of this equipment was not limited to providing energy during peak demand rate times.

Ambient Air Quality Monitoring Analyses

CBD argued that EPA clearly erred by:

- failing to consider aircraft emission impacts on modeling receptors outside Plant 42 boundaries in the PEP facility's cumulative impacts analysis for nitrogen dioxide ("NO₂") averaged over one hour;
- excluding impacts from Plant 42 emissions sources on Plant 42 modeling receptors in that same cumulative impacts analysis; and
- failing to require cumulative impact analyses for carbon monoxide ("CO") emissions and annual NO₂ emissions.

EAB finds that as to aircraft emission impacts on modeling receptors outside Plant 42 boundaries, there was no meaningful confrontation of EPA's analysis. Instead, the groups' arguments were characterized as a general disagreement with EPA's technical judgments for accepting, as representative of the aircraft emissions, background monitoring data collected at an urban air monitoring station 2.5 miles from the facility.

As to the impacts from Plant 42 emission sources on Plant 42 modeling receptors, it is determined that CBD's argument over whether Plant 42 is open to the public are not preserved for review.

EAB further determines that CBD fails to carry their burden of demonstrating that the decision to use "significant impacts levels" in deciding against the cumulative impact analysis for CO and NO₂ was clearly erroneous or otherwise warrants review.

EPA's issuance of the PSD permit is upheld.

A copy of the decision can be found [here](#).