UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901
October 25, 2006

DOCKET 06-AFC-4	
DATE	Oct 25 2006
RECD.	Nov 14 2006

Dr. Barry Wallerstein
Executive Officer
South Coast Air Quality Management District
21865 E. Copley Drive
Diamond Bar, CA 91765

RE: Revised PSD Partial Delegation Agreement

Dear Dr. Wallerstein:

EPA appreciates the efforts of your staff to work with us to develop a revised partial delegation of the federal Prevention of Significant Deterioration (PSD) permitting program for two specific facilities. I am pleased to enclose a signed copy of the new partial PSD delegation agreement. The agreement is effective immediately. We look forward to continuing to work with your staff as we develop a new PSD delegation agreement for all PSD sources located in your District.

Please contact Laura Yannayon at (415) 972-3534 if you have any other questions related to this matter.

Sincerely,

for Deborah Jordan
Director, Air Division

Enclosure

cc: Peter Greenwald, Senior Policy Advisor, SCAQMD
Moshen Nazemi, Assistant Deputy Executive Officer, SCAQMD
John Yee, Senior Engineer, SCAQMD
Mike Tollstrup, Chief of Project Assessment Branch, ARB

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U.S. EPA - South Coast Air Quality Management District

Agreement for Limited Delegation of Authority to Issue and Modify Prevention of Significant Deterioration Permit(s) Subject to 40 CFR 52.21

The undersigned, on behalf of the South Coast Air Quality Management District (District) and the United States Environmental Protection Agency (EPA), hereby agree to the limited delegation of authority for initial issuance or "administrative" modification[1] of the Prevention of Significant Deterioration (PSD) permits identified below, subject to the terms and conditions of this agreement. This delegation is executed pursuant to 40 CFR 52.21(u), Delegation of Authority.

I. BACKGROUND RECITALS

1. EPA had delegated authority to implement the federal PSD regulations at 40 CFR 52.21 for all sources and modifications to the District on January 15, 1997. On December 31, 2002, EPA finalized revisions to the regulations at 40 CFR 52.21, which became effective on March 3, 2003. 67 FR 80186. The revisions to 40 CFR 52.21 did not significantly alter those portions of 40 CFR 52.21 that concern the issuance of permits for newly constructed sources. See id. at 80187.
2. The District may need to revise its local regulations to fully implement the federal regulations at 40 CFR 52.21, effective March 3, 2003. Accordingly, on March 3, 2003, EPA withdrew the delegation of PSD authority from the District. See 68 FR 19371 (April, 24, 2003).
3. Because the federal regulations concerning permit issuance for new sources were not significantly altered effective March 3, 2003, existing District regulations continue to

[1] The term "administrative" modification is defined the same as in the EPA memorandum entitled "Revised Draft Policy on Permit Modifications and Extensions" July 5, 1985, by Darryl Tyler, Director, Control Programs Development Division of US EPA Office of Air quality Planning and Standards.

allow the District to implement 40 CFR 52.21 pursuant to a delegation agreement to complete the initial issuance or administrative modification of the PSD permit for these facilities. This delegation of authority does not extend to modifying the PSD permit after the facility has commenced normal operations. EPA has determined that District Regulation XVII generally meets the requirements of 40 CFR 52.21; therefore, District permits issued in accordance with the provisions of Regulation XVII will be deemed to meet federal PSD permit requirements pursuant to the provisions of this delegation agreement.

II. APPLICABILITY

1. Pursuant to this delegation, the District shall have primary responsibility for initial issuance or administrative modification of the PSD permits identified below until such time as the facility commences normal operations:

   Facilities:

   a. Inland Empire Energy Center
      26226 Antelope Road, Romoland, CA 92585

   b. Vernon Power Plant
      3200 Fruitland Street, Vernon, CA 90058

2. Permitting History for Inland Empire Energy Center (IEEC):

   The District issued a Preliminary Determination of Compliance (PDOC) to the California Energy Commission on June 21, 2002 for the Inland Empire Energy Center LLC (IEEC) project. Subsequently, the District issued the Final Determination of Compliance (FDOC) on February 28, 2003, with an addendum on April 25, 2003. The project was reviewed for compliance with Regulation XIII (New Source Review), Regulation XVII (Prevention of Significant Deterioration), and Regulation XX (RECLAIM), among other

rules. Pursuant to the March 30, 2005 source specific Limited PSD Delegation Agreement between the EPA and the District for the IEEC, the District assumed delegation authority for initial issuance and administrative modifications of the PSD permit. Subsequent to this agreement, on August 5, 2005 the District issued an initial PSD permit and on June 6, 2006 the District issued an administrative modification to the initial PSD permit for the IEEC. To allow the District to continue to issue and process further administrative modifications to the PSD permit, EPA and the District have agreed to this limited delegation of PSD authority for the issuance of administrative modifications to the IEEC PSD permit until the facility commences normal operations.

3. Permitting History for Vernon Power Plant (VPP):

   The applicant submitted a PSD application to EPA Region 9 on July 7, 2006. To allow the District to issue the PSD Approval to Construct for this project, and issue and process administrative modifications to the PSD permit, EPA and the District have agreed to this limited delegation of PSD authority for the issuance of the initial permit and administrative modifications to the VPP PSD permit until the facility commences normal operations.

4. EPA may review the PSD permits to ensure that the District's implementation is consistent with this delegation.

5. The District shall send to EPA a copy of all public notices required by Regulation XVII.

III. GENERAL CONDITIONS:

1. The District shall request and follow EPA guidance on any matter involving the

interpretation of Regulation XVII relating to the PSD permit for the IEEC and VPP projects.

2. This limited delegation may be amended at any time by the formal written agreement of both the District and the EPA, including amendment to add, change, or remove conditions or terms of this agreement.
3. If the EPA determines that the District is not administering the PSD permits identified in this agreement in accordance with the terms and conditions of this limited delegation, the requirements of 40 CFR 52.21, 40 CFR 124, Regulation XVII, or the Clean Air Act, this delegation, after consultation with the District, may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the District.
4. If the District determines that administering the permits identified in this agreement in accordance with the terms and conditions of this agreement, the requirements of Regulation XVII or the Clean Air Act conflict with State or local law, or exceeds the District's authority or resources to fully and satisfactorily carry out such responsibilities, the District after consultation with EPA, may remand administration of the permit for the IEEC or VVP project to EPA. Any such remand shall be effective as of the date specified in a Notice of Remand to EPA.
5. The permit appeal provisions of 40 CFR Part 124, including subpart C thereof, pertaining to the Environmental Appeals Board (EAB), shall apply to all appeals to the Administrator on permits and modifications to permits issued by the District under this delegation. For purposes of implementing the federal permit appeal provisions under this delegation, if there is a public comment requesting a change in a draft preliminary

determination or draft permit conditions, the final permit issued by the District shall contain a statement that for Federal PSD purposes and in accordance with 40 CFR 124.15 and 124.19, (1) the effective date of the permit shall be 30 days after the date of the final decision by the District to issue, modify, or revoke and reissue the permit; and (2) if an appeal is made to the EAB through the Administrator, the effective date of the permit shall be suspended until such time as the appeal is resolved. The District shall inform EPA Region IX in accordance with conditions of this delegation when there is public comment requesting a change in the preliminary determination or in a draft permit condition. Failure by the District to comply with the terms of this paragraph shall render the subject permits invalid for Federal PSD purposes.

6. Pursuant to the provisions of 40 CFR 52.21(u)(2), the District shall consult with the appropriate State or local agency primarily responsible for managing land use prior to making any determinations under this Agreement.
7. Nothing in this agreement shall prohibit EPA from enforcing the PSD provisions of the Clean Air Act, the PSD regulations or any PSD permit issued by the District pursuant to this agreement. In the event that the District is unwilling or unable to enforce a provision of this delegation with respect to a source subject to the PSD regulations, the District will immediately notify the Air Division Director. Failure to notify the Air Division Director does not preclude EPA from exercising its enforcement authority.

8. This limited delegation of PSD authority becomes effective upon the date of the signatures of both parties to this Agreement.

10/6/06
Date

Barry R. Wallerstein, D.Env.
Executive Officer
South Coast
Air Quality Management District

APPROVED AS TO FORM
KURT R. WIESE, DISTRICT COUNSEL
By:
Date: 9/28/06

10/25/06
Date

for
Deborah Jordan
Director, Air Division
U.S. EPA, Region IX