

Dated: August 19, 2005.

**Jeffrey R. Holmstead,**

*Assistant Administrator for Air and Radiation.*

[FR Doc. 05-17037 Filed 8-25-05; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7960-5]

### Notice of Prevention of Significant Deterioration Final Determination for BP Cherry Point Cogeneration Facility

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final action.

**SUMMARY:** This document announces that on June 21, 2005, the Environmental Appeals Board ("EAB") of EPA denied review of a petition for review of a Prevention of Significant Deterioration ("PSD") permit ("Permit") that EPA Region 10 and the State of Washington's Energy Facility Site Evaluation Council ("EFSEC") issued to BP West Coast Products, L.L.C. ("BP") for construction and operation of the BP Cherry Point Cogeneration Facility ("Facility"), a natural gas-fired cogeneration facility. The Permit was issued pursuant to 40 CFR 52.21.

**DATES:** The effective date of the EAB's decision is June 21, 2005. Judicial review of this permit decision, to the extent it is available pursuant to section 307(b)(1) of the Clean Air Act ("CAA"), may be sought by filing a petition for review in the United States Court of Appeals for the Ninth Circuit within 60 days of August 26, 2005.

**ADDRESSES:** The documents relevant to the above action are available for public inspection during normal business hours at the following address: EPA, Region 10, 1200 Sixth Avenue (AWT-107), Seattle, Washington 98101. To arrange viewing of these documents, call Dan Meyer at (206) 553-4150.

**FOR FURTHER INFORMATION CONTACT:** Dan Meyer, EPA, Region 10, 1200 Sixth Avenue (AWT-107), Seattle, Washington 98101.

**SUPPLEMENTARY INFORMATION:** This supplemental information is organized as follows:

- A. What Action Is EPA Taking?
- B. What Is the Background Information?
- C. What Did the EAB Decide?

#### A. What Action Is EPA Taking?

We are notifying the public of a final decision by the EAB on the Permit issued by EPA Region 10 and EFSEC ("Permitting Authorities") pursuant to

the PSD regulations found at 40 CFR 52.21.

#### B. What Is the Background Information?

The Facility will be a 720-megawatt natural gas-fired, combined cycle combustion turbine cogeneration facility located on a 33-acre parcel of land adjacent to BP's existing Cherry Point petroleum refinery in Whatcom County, Washington. The Facility will combust natural gas and will employ selective catalytic reduction (SCR) and an oxidation catalyst to reduce emissions.

On November 7, 2003, EFSEC issued the draft PSD permit for public review and comment. On December 21, 2004, after providing an opportunity for public comment and a public hearing, EFSEC approved the Permit. On January 11, 2005, EPA approved the Permit. On February 4, 2005, Ms. Cathy Cleveland ("Petitioner") petitioned the EAB for review of the Permit.

#### What Did the EAB Decide?

Petitioner, acting *pro se*, raised the following issues on appeal: (1) The Permitting Authorities failed to protect Peace Arch Park, a Class I area; (2) The Permitting Authorities failed to properly evaluate particulate matter ("PM") emissions from the Facility and failed to consider the health impacts related to PM; (3) the Permitting Authorities failed to properly model the ambient air quality; (4) the National Ambient Air Quality Standards ("NAAQS") designation was incorrectly identified in the Permit; (5) EPA's recommended nitrogen oxide ("NO<sub>x</sub>") limit was not included in the Permit; and (6) the Memorandum of Understanding ("MOU") between BP and the Province of British Columbia was missing from the Permit attachments.

The EAB denied review of the following three issues because these issues were not raised during the public comment period on the draft Permit or during the public hearing on the draft Permit: (1) the Permitting Authorities failed to protect Peace Arch Park, a Class I area; (2) the Permitting Authorities failed to properly model the ambient air quality; and (3) the NAAQS designation was incorrectly identified in the Permit. The EAB further concluded that the Permitting Authorities properly considered the impacts of emissions of particulate matter less than 10 microns ("PM<sub>10</sub>") and particulate matter less than 2.5 microns ("PM<sub>2.5</sub>"). Moreover, the EAB found that Petitioner failed to demonstrate that the Permitting Authorities committed clear error in adopting a NO<sub>x</sub> limit of 2.5 parts per million ("ppm") rather than 2.0 ppm.

Last, the EAB concluded that Petitioner failed to demonstrate that the Permitting Authorities committed clear error by failing to include the MOU between BP and the Province of British Columbia in the administrative record. For these reasons, the EAB denied review of the petition for review in its entirety.

Pursuant to 40 CFR 124.19(f)(1), for purposes of judicial review, final agency action occurs when a final PSD permit is issued and agency review procedures are exhausted. This notice is being published pursuant to 40 CFR 124.19(f)(2), which requires notice of any final agency action regarding a PSD permit to be published in the **Federal Register**. This notice constitutes notice of the final agency action denying review of the PSD Permit and consequently, notice of the Permitting Authorities' issuance of PSD Permit No. EFSEC/2001-02 to BP. If available, judicial review of these determinations under section 307(b)(1) of the CAA may be sought only by the filing of a petition for review in the United States Court of Appeals for the Ninth Circuit, within 60 days from the date on which this notice is published in the **Federal Register**. Under section 307(b)(2) of the Clean Air Act, this determination shall not be subject to later judicial review in any civil or criminal proceedings for enforcement.

Dated: August 1, 2005.

**Ronald A. Kreizenbeck,**

*Acting Regional Administrator, Region 10.*

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7960-6]

### Notice of Prevention of Significant Deterioration Final Determination for Cardinal FG Company

**AGENCY:** Environmental Protection Agency (EPA)

**ACTION:** Notice of final action.

**SUMMARY:** This document announces that on March 22, 2005, the Environmental Appeals Board ("EAB") of EPA denied review of a petition for review of a Prevention of Significant Deterioration ("PSD") permit ("Permit") that the State of Washington's Department of Ecology ("Ecology") issued to Cardinal FG Company ("Cardinal") for construction and operation of a flat glass production plant ("Facility") near Chehalis, Washington. The Permit was issued pursuant to 40 CFR 52.21. Ecology has the authority to