ACTION: Notice of final order on petitions to object to a state operating permit.

SUMMARY: Pursuant to Clean Air Act (CAA) Section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator issued a state permit on December 15, 2009, granting in part and denying in part petitions to object to a merged prevention of significant deterioration (PSD) and title V operating permit issued by the Kentucky Division for Air Quality (KDAQ) to Cash Creek Generation, LLC for its Cash Creek Generating Station located near Owensboro in Henderson County, Kentucky. This Order constitutes a final action on parts of the petitions submitted by Sierra Club and Valley Watch (Petitioners) on January 31, 2008, and February 13, 2008, respectively. Petitioners submitted petitions regarding the Cash Creek Generating Station on January 31, 2008, and February 13, 2008, respectively, requesting that EPA object to the merged PSD and title V operating permit (#V–07–017). Petitioners alleged that the permit was not consistent with the CAA for the following reasons: (1) The best available control technology (BACT) analyses did not include natural gas as a clean fuel; (2) the permit lacks the appropriate new source performance standards for the combustion turbines planned for the facility; (3) the permit lacks a limit for particulate matter of less than or equal to 2.5 microns in diameter; (4) the permit lacks a BACT limit for carbon dioxide; (5) KDAQ did not consider, and was unresponsive to, public input regarding alternatives analysis for the proposed permit; (6) Elm Road (a facility located in Wisconsin) sulfuric acid mist limits were not considered in the BACT analysis; (7) KDAQ did not respond to comments regarding material handling and storage emissions; and (8) KDAQ did not respond to Valley Watch comments on increased ozone formation due to the emissions from the proposed source.

On December 15, 2009, the Administrator issued an Order granting in part and denying in part the petitions. The Order explains EPA's rationale for granting the petitions with respect to issues 1, 2, 3, 5, 6, and 8; and denying the petitions with respect to the remaining issues.

Dated: December 18, 2009.

Beverly H. Banister,
Acting Regional Administrator, Region 4.

SUPPLEMENTARY INFORMATION: The CAA affords EPA a 45-day period to review and, as appropriate, the authority to object to operating permits proposed by state permitting authorities under title V of the CAA, 42 U.S.C. 7661f–7661ff. Section 505(b)(2) of the CAA and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a title V operating permit within 60 days after the expiration of EPA’s 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.