

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 52**

[FRL-6572-5]

**Notice of Prevention of Significant
Deterioration (PSD) Final
Determination for Delta Energy Center,
Pittsburg, CA****AGENCY:** Environmental Protection
Agency.**ACTION:** Notice of final action.

SUMMARY: The purpose of this document is to announce that on February 9, 2000, the U.S. Environmental Protection Agency (EPA) Environmental Appeals Board (Board) dismissed a petition for review of a permit issued for the Delta Energy Center by the Bay Area Air Quality Management District (District) pursuant to the Prevention of Significant Deterioration of Air Quality (PSD) regulations under 40 CFR 52.21.

DATES: The effective date for the Board's decision is February 9, 2000.

FOR FURTHER INFORMATION CONTACT: Martha Larson, Permits Office, Air Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-1170.

SUPPLEMENTARY INFORMATION: On October 21, 1999, the District issued a Final Determination of Compliance (Application Number 19414) to Delta Energy Center for the construction of a new power plant in Pittsburg, CA. The Final Determination of Compliance also constituted a final PSD Permit under 40 CFR 52.21 and the terms of the District's delegation of authority from the U.S. EPA under 40 CFR 52.21(u). On November 16, 1999, Californians for Renewable Energy, Inc. ("CRE") petitioned the Board to review this permit. On February 9, 2000, the Board dismissed CRE's petition due to failure to meet the standing requirements necessary for obtaining review of PSD permits as set forth in 40 CFR part 124 (see *In re: Delta Energy Center*, PSD Appeal No. 99-76).

Pursuant to 40 CFR 124.19(f)(2), for purposes of judicial review, final Agency action occurs when a final PSD permit is issued and Agency review procedures are exhausted. This notice, being published today in the FR, constitutes notice of the final Agency action denying review of the PSD permit. 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 appropriate circuit within 60 days from the date on which this determination is published in the FR. Under section 307(b)(2) of this Act, this determination shall not be subject to later judicial review in any civil or criminal proceedings for enforcement.

Dated: March 24, 2000.

David P. Howekamp,

Director, Air Division, Region IX.

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