
Environmental Appeals Board Remands PSD Permit to EPA on Issue of CO₂ Limits; Declines to Require CO₂ Controls

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On Nov. 13, 2008, the US Environmental Protection Agency's (EPA) Environmental Appeals Board (EAB or the Board) issued an order that denied review in part and remanded in part a challenge to the Agency's issuance of a Prevention of Significant Deterioration (PSD) permit to Deseret Power Electric Cooperative for construction of a new electric generating unit in Utah (*In re Deseret Power Electric Cooperative*, PSD Appeal No. 07-03 (Nov. 13, 2008)).

Although the Board rejected the grounds upon which the Agency declined to include a Best Available Control Technology (BACT) limit on carbon dioxide (CO₂) in the PSD permit, it also rejected the petitioner's claim that the Clean Air Act (CAA) requires a PSD permit to include such BACT limits. In remanding the PSD permit to the EPA, the board suggested the EPA consider addressing the issue not in the context of this (and other) individual permitting decisions, but on a national basis. For more information, see our [recent Email Alert](#).