**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**REGION 8**
1595 Wynkoop Street
Denver, CO 80202-1129
Phone 800-227-8917
www.epa.gov/region08

NOV 19 2015

Ref: 8P-AR

The Honorable Shaun Chapoose, Chairman
Ute Indian Tribe
Uintah and Ouray Indian Reservation
P.O. Box 190
Fort Duchesne, Utah 84026

Re: Continuing Consultation and Coordination on Issuance of a Minor New Source Review Permit for the Deseret Generation & Transmission Cooperative–Bonanza Power Plant on the Uintah and Ouray Indian Reservation

Dear Chairman Chapoose:

The Environmental Protection Agency Region 8, (EPA) appreciates the meeting on November 6, 2015, with Councilman Tony Small and Mr. Rollie Wilson, Fredericks Peebles & Morgan LLP. The November 6, 2015, meeting focused on tribal concerns regarding the proposed Deseret Settlement Agreement, which included a preliminary discussion on the drafting of a proposed Minor New Source Review (NSR) permit for the Deseret Bonanza power plant. The plant is a 500 megawatt coal-fired electrical generating facility located in Indian country within the exterior boundaries of the Uintah and Ouray Indian Reservation. This plant is regulated under the Clean Air Act permitting programs found at 40 CFR Parts 49, 52 and 71.

As a result of the proposed Settlement Agreement (EAB Case Nos. CAA 15-01; CAA 15-02), the EPA is drafting a proposed Minor NSR permit for the Deseret Bonanza plant. The proposed Settlement Agreement would require that the permit include the following permit terms requested by Deseret:

(1) An overall coal consumption cap for the lifetime of the facility of 20 million tons starting in 2020;
(2) Annual mass-based nitrogen oxide (NOx) emission limits for the facility; and
(3) Installation of new low NOx burners with an overfire air system that will reduce NOx emissions to be installed in 2016 or 2018.

Once the public comment period closes for the proposed Settlement Agreement on November 23, 2015, we will consider any comments received and decide whether to enter into the Agreement. The proposed Settlement Agreement integrates Deseret's two-year maintenance shutdown schedule with installation of new low NOx burners occurring during one of two timeframes: first, if the EPA were to issue a Minor NSR permit, late 2015 to early 2016, Deseret would install low NOx burners by June 30, 2016;

Printed on Recycled Paper

alternatively, if EPA were to issue a permit later than early 2016, installation of low NOx burners would not be required until June 30, 2018, during the next maintenance shutdown. We would appreciate the opportunity to continue timely discussions within the next few weeks with the Tribal Business Council on the proposed Settlement Agreement and the drafting of the Minor NSR permit. If the proposed Settlement Agreement is finalized, the EPA's goal is to issue a Minor NSR permit by early 2016. The EPA requests that you reply by December 2, 2015 to let us know whether you desire to continue to consult on the proposed Settlement Agreement and on the development of the proposed Minor NSR permit. We have enclosed Deseret's Minor NSR permit application dated November 2, 2015.

The EPA Region 8 will continue to regularly coordinate and communicate with Minnie Grant, Ute Director of the Air Quality Program. If you would prefer to designate an alternative representative for communications, please notify us of that person's name and contact information. We will keep the Tribal government informed and will seek your input on the proposed Settlement Agreement and on development of the proposed Minor NSR permit.

The EPA welcomes the opportunity to consult and coordinate with the Ute Indian Tribe. If you choose to continue to consult about these actions, we will work with your Tribal government to develop a consultation plan including a description of the process we would follow, opportunity for your input, and timeline for the region to provide feedback and to complete the consultation. The agency's goal will be to ensure that you have an opportunity to provide Tribal input into these actions. We conduct this consultation and coordination process consistent with the *EPA Policy on Consultation and Coordination with Indian Tribes* (http://www2.epa.gov/sites/production/files/2013-08/documents/cons-and-coord-with-indian-tribes-policy.pdf).

Thank you very much for your attention to this matter. Please contact me at (303) 312-6392, or your staff can contact Noreen Okubo at (303) 312-6646 and Okubo.noreen@epa.gov, if you wish to initiate further tribal consultation on these actions. We look forward to hearing from you on this important matter.

Sincerely,

Darcy O'Connor
Acting Assistant Regional Administrator
Office of Partnerships and Regulatory Assistance

Enclosure

Cc w/o Enclosure:

Edred Secakuku, Vice-Chairman Business Committee, Ute Indian Tribe
Gordon Howell, Councilman
Tony Small, Councilman
Bruce Ignacio, Councilman
Ronald Wopsock, Councilman
Reannin Tapoof, Executive Secretary, Ute Indian Tribe
Minnie Grant, Ute Director Air Quality Division
Bruce Pargeets, Acting Director Minerals, Energy and Air Quality
Jeremy Patterson, Esq., Fredericks Peebles & Morgan LLP
Rollie Wilson, Esq,, Fredericks Peebles & Morgan LLP
Laura McKelvey, EPA, OAR, OAQPS, OID
Greg Green, EPA OAR, OAQPS, RTP