**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**REGION 8**
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November 6, 2015

Ref: 8P-AR

**MEMORANDUM**

SUBJECT: Record of Communication – meeting with Ute Tribe

FROM: Noreen Okubo
Air Program

TO: Deseret Power Settlement Agreement (EAB Case Nos. CAA 15-01;CAA 15-02)

This memorandum is to serve as a record of communication for a tribal consultation conference call November 6, 2015 between the Ute Indian Tribe, EPA Region 8, and EPA HQ.

**Attendees:**

EPA
Carl Daly, R8 Air Program Director
Sara Lauman, R8 Office of Regional Counsel
Alfreda Mitre, R8 Senior Tribal Advisor
Mike Owens, R8, Air Program
Claudia Smith, R8 Air Program
Pat Childers, EPA OAR
Greg Green, EPA OAR, OAQPS, RTP
Randy Hill, EPA AO, EAB

Ute Tribe
Tony Small, Councilman Ute Indian Tribe
Rollie Wilson, Frederick's, Peebles and Morgan LLC

**Summary of Meeting**
The purpose of this meeting was to consult with the Tribe on the proposed settlement agreement currently out for public comment. Many of the settlement agreement conditions are to be written into a Minor New Source Review Permit. One of the settlement agreement conditions proposes a Minor New Source Review Permit requiring installation of low emission NOx burners during a 2 year maintenance cycle shut down period.

**EPA Talking Points**
If EPA proposes and finalizes a MNSR no later than December 31, 2015, Deseret Power has agreed to install low NOx emission burners by June 30, 2016. If EPA finalizes a MNSR permit after

December 31, 2015, Deseret has agreed to install low NOx emission burners by June 30, 2018. Continue Tribal consultation and coordination with Ute Business Council on development of MNSR permit.

Encourage Ute tribe to submit written comments by the end of the Settlement Agreement public comment period.

**Ute Tribal Questions and Concerns**

1. The timeline for proposal and issuance of the MNSR permit seems hasty. The EPA should allow adequate time to ensure that the permit is technically sound.
   a. The EPA has had the Tribe's concerns at the forefront of our minds throughout the agreement negotiations process and will continue to do so throughout finalization of the agreement.

2. Why can't the Ute Tribe receive advance draft and proposed permits prior to the public comment period?

   a. Regional consistency in permitting policy does not allow advance release of draft and proposed permits prior to the public comment period, because it would unfairly provide interested parties more time to review the permit than the general public.